

The complaint

Mr R is unhappy that a car supplied to him under a hire purchase agreement with Startline Motor Finance Limited (Startline) was of an unsatisfactory quality.

What happened

In February 2022 Mr R was supplied with a used car through a hire purchase agreement with Startline. He paid a deposit of £6,026 and the agreement was for £27,509 over 60 months; with 59 monthly payments of £357 and a final payment of £367. At the time of supply, the car was around five years old, and had done 51,517 miles.

Mr R complains that the car has been faulty since he acquired it in February 2022. He said the engine management light (EML) was on when he bought the car. He said it was fixed at the time, but it came back on again. He said he was told the drive chain had been replaced.

He said the car had been in the garage on two further occasions with the same fault. He said there had been two failed attempts to repair the car and it had now “*shut down*”. He said this was because faulty parts had not been replaced. He said that four diagnostic reports show the same continuous faults. He said he now needs a new Diesel Particulate Filter (DPF), a timing chain, and there is a blocked injector.

Startline said that the supplying dealer had arranged an independent inspection of the car. They said the report confirmed that the car’s engine had suffered internal damage and needed relacing. The report said the fault would not have been developing at the time the car was supplied to Mr R.

Mr R was unhappy with this response, so he referred his complaint to our service for investigation.

Our investigator said the faults were more likely due to the lack of regular maintenance. She said the independent report highlighted that the car hadn’t been serviced. She said she was satisfied the faults weren’t present when Startline supplied the car to Mr R.

She also said there was no evidence that the faults related to previous failed repairs.

Mr R didn’t agree with the investigator. He submitted further information which he said showed the original faults had not been repaired.

Our investigator reviewed the new information and said they didn’t change her opinion. She said the new information confirmed the car had faults, but there was nothing to show the faults were present or developing at the time of supply. She was more persuaded that the engine failed due to the continued use of the car whilst the EML was illuminated.

Because Mr R didn’t agree, this matter has been passed to me to make a final decision.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, I've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome. Where evidence has been incomplete or contradictory, I've reached my view on the balance of probabilities – what I think is most likely to have happened given the available evidence and wider circumstances.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Mr R was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we are able to investigate complaints about it.

The Consumer Rights Act 2015 (CRA) covers agreements such as the one Mr R entered into. Under this agreement, there is an implied term that the goods supplied will be of satisfactory quality. The CRA says that goods will be considered of satisfactory quality where they meet the standard that a reasonable person would consider satisfactory – taking into account the description of the goods, the price paid, and other relevant circumstances. The CRA says the quality of the goods includes their general state and condition, as well as other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability.

So, if I thought the car was faulty when Mr R took possession of it, or that the car wasn't sufficiently durable, and this made the car not of a satisfactory quality, it'd be fair and reasonable to ask Startline to put this right.

There's no dispute that the car is faulty. That is clear from Mr R's testimony and the independent report submitted by Startline. The key issue here is whether or not the current faults were present or developing at the time of sale.

The car was repaired in or around May 2022. The invoice Mr R has provided shows that the timing chain kit was replaced. Mr R travelled a further 19,000 miles over the following 21 month period. I don't think that would've been possible if the original repair had failed.

The car broke down in February 2024 and the supplying dealer arranged an independent inspection. I've seen a copy of the independent engineer's report, dated 22 April 2024. The car had done 71,854 miles and the report stated that the engine no longer runs.

In this report, the engineer concluded that the fault likely related to blockage of the DPF. Critically, the engineer found that *"the fault codes were erased 863 miles ago, although the faults lately returned and the EML illuminated. The vehicle has then travelled 863 miles with the EML illuminated until the point of breakdown"*.

The engineer concluded that the breakdown was due to the car being driven with the EML illuminated. The engineer said *"The vehicle has remained in use for 863 miles with the EML illuminated, alerting the operator to an issue, to which they were clearly aware of. It is therefore considered that the engine non-start condition and internal damage has been caused by operator neglect. Clearly, the vehicle was in a running state prior to the operator conducting various journeys with an obvious issue."*

He also stated that he did not consider the fault to have been developing at the point of supply.

The engineer also confirmed his duty was to the courts, not to the person who instructed or paid for the report. As such, I'm satisfied this report is reasonable to rely upon.

Section 6 of the terms and conditions attached to the hire purchase agreement Mr R entered into explains how Mr R must keep the car in good condition and have it serviced in line with the manufacturer's service recommendations. It states:

Care and Maintenance of the Vehicle

6.1 You will:-

6.1.1 take proper care of the Vehicle and keep it in good and serviceable condition and maintain it in accordance with the manufacturers and Suppliers servicing recommendations, handbooks and manuals, and ensure it has a full service history;

Mr R said a service wasn't due on the car. The independent inspection stated that a service hadn't been done since the car had been supplied. Given that Mr R had driven the car for more than 19,000 miles, and had it for more than 19 months, I'm satisfied that it's likely that he failed to keep the car maintained as required. If it had been serviced, this may have highlighted issues with the DPF before it led to the engine failure.

Mr R said that the faults weren't caused by the lack of maintenance. He supplied a diagnostic report he had from an independent garage that showed the car had a number of faults. These included "*replace EGR and EGR cooler*" and "*replace timing chain*", amongst other items.

This report was an "*estimate*" for work and parts required rather than a diagnostic report. So whilst it confirmed parts needed replacing, it didn't indicate the reason for the failure, or if the faults were likely to be present or developing at the time of sale.

I find the independent diagnostic report arranged by the supplying dealer and submitted by Startline more persuasive as it addressed the faults and when and why they were likely to have occurred.

Mr R said the faults from 2022 were always present, and the EML had been on from June 2022. He provided a video of a mechanic inspecting the engine. In this video the mechanic referred to issues with the timing chain and described how a piece of the sprocket fell off. The mechanic said the timing chain looked like original parts.

The mechanic said the car was brought to him as a non-runner. He said it appeared to him that the timing chain had been fixed but not replaced. He also commented that it hadn't been done recently. He also said the clutch was quite worn and the flywheel was making a noise and needed a full clutch repair.

This information again described faults that were present in the car. But as I've said above, there is no dispute that the car had faults. The issue I have to consider is whether or not the faults were present or developing at the time of sale. I'm persuaded by the independent inspection that the reason the car had failed was because it was driven whilst the warning light was illuminated. The report describes how the car had been running, but the continued use on various journeys with the warning light showing led to the engine failure.

I thank Mr R for the extra information he supplied. I've carefully considered the information, but I've seen nothing that persuades me that the failure of the engine was due to a failed repair.

I know this will be disappointing for Mr R, and I'm sorry to hear about how he and his family have been affected by the fault with the car. But I'm satisfied the breakdown of the car is not related to the satisfactory quality of the car when it was supplied. So it follows that I don't require Startline to do anything to put things right.

My final decision

For the reasons explained, I don't uphold Mr R's complaint about Startline Motor Finance Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 31 December 2024.

Gordon Ramsay
Ombudsman