

The complaint

Mr C complains that the car he acquired financed through a hire purchase agreement with Specialist Motor Finance Limited ("SMFL") wasn't of satisfactory quality.

What happened

Mr C acquired a used car financed through a hire purchase agreement with SMFL which he signed on 19 January 2024. Mr C said he discovered there was an outstanding recall on the car from the manufacturer dated before he signed his agreement. He booked the car in with a manufacturer's garage, M, to address the recall issue. He said M noted two error codes, one relating to the recall and one relating to a different issue. M told Mr C the second issue wasn't caused by the recall update and was a separate problem which would be around £1,000 to investigate.

Mr C said after the recall work had been carried out the second fault was still present. He said he spent £650 for two new 12v batteries with a local specialist garage, G. He said G told him the fault messages were being caused by a faulty motor which needed to be replaced. Mr C raised a complaint to SMFL and requested to reject the car. He said the fault was originally reported to the dealer within 30 days and it had advised him to contact the manufacturer. He said multiple systems weren't working on the car.

SMFL arranged for an independent inspection of the vehicle. In its final response to Mr C it said the inspection report confirmed the faults were not the responsibility of the supplying dealer and didn't uphold the complaint.

Mr C brought his complaint to this service. He said the car isn't driveable. He said he's had to rely on other means of transport including buying another car. And the situation has caused him stress. He said the car was sold to him with an outstanding warranty recall which the dealership hadn't dealt with.

In his second view our investigator concluded the car wasn't of satisfactory quality and Mr C should be allowed to reject it. SMFL didn't agree and asked for a decision from an ombudsman. It made some further comments to which I have replied below where appropriate.

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 agree with the conclusions reached by the investigator for the reasons I've outlined below.

In considering what is fair and reasonable I need to have regard to the relevant law and regulations, regulator's rules, guidance and standards, codes of practice and (where appropriate) what I consider to have been good industry practice at the relevant time. Mr C's

hire purchase agreement is a regulated consumer agreement and as such this service can consider complaints relating to it.

SMFL, as the supplier of the car, was responsible for ensuring that it was of satisfactory quality when it was supplied to Mr C. Whether or not it was of satisfactory quality at that time will depend on several factors, including the age and mileage of the car and the price that was paid for it. The car that was supplied to Mr C was about three years old and had been driven for approximately 77,000 miles. Satisfactory quality also covers durability which means that the components within the car must be durable and last a reasonable amount of time – but exactly how long that time is will depend on several factors.

If I am to decide the car wasn't of satisfactory quality, I must be persuaded faults were present at the point of supply. Faults that developed afterwards are not relevant, moreover even if the faults reported were present at the point of supply this will not necessarily mean the car wasn't of satisfactory quality. This is because a second-hand car might be expected to have faults due to wear and tear.

I'm persuaded there are faults with the car. I've seen copies of the job sheets provided by M and G and the independent inspection report. These confirm issues with the traction battery and motor.

M Invoice dated 22 February dated 11:53 AM:

"Replaced front brake pads wear sensor.

Investigate and report HV system fault detected. Tested and confirmed concern. Carried out code read. Found fault code P0AA6-00 in BECM for isolation faults. Updated BECM and tested. Fault still present and same fault code. Requires isolation test as first stage of diagnostics to confirm root cause."

The HV fault is in relation to the recall. From the Gov.uk website this is noted as a safety recall and is dated 31 October 2023. The fault code P0AA6-00 was not, and required further investigation.

M Invoice dated 15 May:

"Requirement B - Investigate and report HV system fault detected, this came on after we carried out the recall on the car"

"Traction battery fault detected, carried out fault code read, logged fault P1B48-00. carried out HV deviation tests and found HV battery module 10 requires replacing. carried out pressure test to HV battery frame and leak was found. carried out lower surface repair and reseal to rame. Retested pressure and is now ok. replaced HV battery module 10 ref topix and carried out post deviation tests all ok. vehicle is now charging to 100%"

G invoice dated 30 May 2024:

Replaced both batteries. Investigate further warning lights on instrument display found motor position sensor failure. Suspect new motor required. Will require further investigation to be 100% sure.

Neither party is disputing that there are faults with the vehicle. What is disputed is whether the second faults with the traction battery and motor are related to the recall and if not whether they were present or developing at the point of sale.

SMFL commissioned an independent inspection which took place on 16 July 2024. The mileage of the vehicle at that time was 80,320. The report says:

...there were a substantial number of fault codes present, and due to the recent battery replacement, many are likely erroneous or sporadic...

In our opinion, the 12-volt batteries have been replaced correctly. With regards to the traction battery and motor, it is considered that further in-depth testing and diagnosis is required, however, based on the paperwork provided showing the statement "Requirement B - Investigate and report HV system fault detected, this came on after we carried out the recall on the car", it appears that the issues have only arisen since that point, and therefore, this should be presented back to the main agent for their consideration. It is clear that the defects were not present prior to this, and therefore, it is not considered that this is the responsibility of the supplier, as the vehicle was successfully operating correctly up until this point...

We can conclude that the vehicle requires further in-depth component testing and complete diagnosis, although based on the comments on documentation from the main agent, it is considered that they may be liable in this instance. The defects would not have been developing at inception.

The report's conclusion that the defects would not have been present or developing at the point of sale appears to be solely dependent on one sentence from M's invoice under Requirement B. There doesn't appear to be a specific technical finding noted by the inspector that illustrates the faults were likely present or developing at the point of sale. SMFL based its final response on this report. Our investigator also gave weight to this report in his first view. In response Mr C then provided some additional evidence from M:

1. Diagnostic sheet with diagnostic trouble codes (DTC), dated 17 February. The codes are related to both the recall HV issue and the traction battery and motor.
2. Pricing estimate for a job dated 22 February 2024 at 11:56 AM. It repeated the findings of the invoice dated the same day.
3. Statement from M. It said:
"We replaced the High Voltage battery cell on your vehicle. The vehicle first arrived into us on 2 February and this is when the faults first appeared on the vehicle. The fault was then diagnosed on 20 February and the repair was completed on 15 May. The delay was due to back-order parts. This repair was covered under the 8-year High Voltage State of Health warranty. During the visit we also found fault P0AA6-00 in the BECM. On 22 February we sent over the attached estimate to carry out isolation tests. We were aware of two faults on the vehicle during the first visit. Your vehicle has a fault with the front drive unit. This fault is unrelated to the HV battery cell and would not fail because of the battery failure."

Where the evidence is incomplete, inconclusive or contradictory I reach my decision on the balance of probabilities - in other words what I consider is most likely to be the case in light of the available evidence and the wider circumstances.

In this later statement M clarified the situation by saying that the two fault codes, one related to the recall and one not, were both found on 17 February before the recall work was carried out. The independent inspector relied on M's comment regarding "Requirement B" to say the defect wasn't developing at point of sale. But in the absence of any specific technical finding

by the inspector to confirm the faults weren't present at the point of sale it does seem likely that the fault was present.

This evidence was presented to SMFL. In response it said it was in M's interest to suggest the fault was unrelated to the recall. The pricing estimate provided to Mr C is dated 22 February and was issued at 11:56 AM. The invoice for the tyres and initial investigation was issued at 11:53 AM. I've no reason to doubt the testimony of M and as the pricing estimate was produced within minutes of the invoice, I'm persuaded that on 22 February M considered this a separate issue to be isolated.

SMFL provided comments from both the dealer and the broker. The dealer provided a copy of the vehicle health check (VHC) dated 6 February 2024. It said the report shows a brake pad wear sensor and a repair was authorised straightaway. It said the VHC showed no faults at all beyond that. The recall date was 31 October, and this fault was not picked up by the VHC either. I'm not disputing the findings of the VHC, but I can't see code checks on it. In addition, it would be reasonable to expect the dealer to have picked up on the recall prior to sale. The broker said the vehicle was fault free until the software update was completed by the main dealer, but the estimate provided by M appears to contradict that. The broker also relies on the statement under "Requirement B" on the invoice dated in May. But again, the estimate provided by M in February indicates further isolation investigation is required for a different fault code.

I'm persuaded by the evidence that the P0AA6-00 fault was present before and after the recall repairs and that the car had a faulty motor when it was seen by the garage in February. Electric motors would be expected to last around 150,000 miles. In this case Mr C signed the agreement on 19 January 2024 and presented the vehicle to the garage on 2 February which was within 30 days of acquiring the vehicle. He had only driven about 450 miles, to a total of 77,348, when it was seen on 20 February. So, I don't believe the vehicle was durable and I'm not persuaded it was of satisfactory quality when it was supplied.

Mr C hasn't been able to use the car since 30 May 2024 when the batteries were replaced so it would be fair for SML to refund payments from that date. Mr C was able to use the car up until May, but it wasn't performing as it should have, and I agree with the investigator that a 20% refund of the payments made from 19 January 2024 to 30 May fairly reflects the impaired use. This situation has also caused Mr C some distress and inconvenience as he's had to find alternative transport. And I think it fair and reasonable that SMFL pay him £250 in compensation.

In February 2025 Mr C said he moved house and may incur storage fees for the car. If so then it would be reasonable for these to be refunded.

Putting things right

To put things right Specialist Motor Finance Limited must:

- end the agreement with nothing further to pay;
- collect the car (if this has not been done already) at no further cost to Mr C;
- refund any reasonable storage costs if the car has had to be stored off-road from 1 February 2025 to date of settlement, on production of a receipt;
- refund the cost of the two 12v batteries, on production of a receipt;
- refund payments made after 30 May 2024 until date of settlement;
- refund 20% of the payments made from 19 January 2024 to 30 May;
- pay 8% simple yearly interest on all refunded amounts from the date of payment until the date of settlement;

- pay £250 for any distress or inconvenience that's been caused;
- remove any adverse information from Mr C's credit file in relation to the agreement.

My final decision

My final decision is I uphold this complaint and Specialist Motor Finance Limited must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 4 April 2025.

Maxine Sutton
Ombudsman