

The complaint

Miss Z is unhappy that a car supplied to her under a hire purchase agreement with Specialist Motor Finance Limited (SMF) was of an unsatisfactory quality.

When I refer to what Miss Z or SMF have said or done, it should also be taken to include things said or done on their behalf.

What happened

In October 2023, Miss Z was supplied with a used car through a hire purchase agreement with SMF, who she was introduced to via a car finance broker. The cash price of the car and the amount of credit was £8,447, to be paid over 59 months; with 58 monthly payments of around £257 and a final repayment of around £267. At the time of supply, the car was around ten years old, and had covered around 114,000 miles.

Miss Z contacted the dealership a week later to complain of a burning smell. They inspected the car at this point and found no issues with it. However, they replaced the engine anyway, after which the car was serviced, inspected and test driven before being returned to Miss Z.

While the car was being repaired, Miss Z contacted the broker and SMF to complain about major issues with the car. The broker responded in November 2023. They said the car had been repaired and Miss Z had confirmed she was happy to keep it.

In February 2024, Miss Z reported further issues with the car to the dealership. A vehicle health check, carried out by a third party, found leaking coolant and an excessive oil leak. It was recommended that the coolant pump, thermostat and intercooler were repaired. Miss Z tried to claim on the warranty for these repairs, but the claim was declined. She was advised the water pump and thermostat leaks were considered wear and tear issues and the intercooler is not a part covered by the plan.

Miss Z complained to SMF again in February 2024 about the further faults. She asked them to arrange for the repairs to be carried out at no cost to her, or she'd like to reject the car. Miss Z sent a diagnostic report to SMF, which they forwarded to Miss Z's broker. SMF continued to chase a response from the broker until notifying Miss Z she could refer her complaint to the Financial Ombudsman Service in April 2024.

In May 2024, Miss Z notified our Investigator that after taking the car to have a filter changed, she was informed further repairs were required. This included a fly wheel rattle, a missing air filter intake, a corroded rear disc and perished lower arm console bushes.

In June 2024, she told our Investigator the air conditioning (AC) wasn't working and a light had illuminated on the dashboard to check the coolant. In July 2024, she was quoted around £520 for repairs to the radiator and coolant by a third-party garage.

SMF sent Miss Z an arrears notice in June 2024, for the sum of around £514. They said if she didn't make a payment to clear the overdue amount, or contact them within ten days, they may issue a Notice of Default. Miss Z said she'd fallen behind on payments due to

repairs she'd had to pay for, and no longer having permanent work because of the issues she'd had with the car.

Our Investigator thought Miss Z's complaint should be upheld. They said all of the issues with the car were reported within the first six months, so SMF were responsible for evidencing that they wouldn't have been present or developing at the point of sale. They said SMF had their one opportunity at repairing the car in October 2023, and there was no evidence of them obtaining an independent report to support the present issues were a result of wear and tear. The Investigator also noted that SMF had provided Miss Z with incorrect advice regarding who was responsible for the issues she'd experienced with the car.

To put things right, the Investigator thought SMF should allow Miss Z to reject the car, refund 25% of the payments she made to reflect impaired use, refund the cost of repairs, pay £250 compensation and remove any adverse information relating to the agreement from her credit file.

Miss Z said SMF should also compensate her for loss of wages, as her contract wasn't renewed because she was unable to complete her contracted unsociable hours, due to not having a car. The Investigator didn't agree SMF should do this, as they aren't directly responsible for her ability to reach her workplace.

SMF didn't respond to the Investigator's view.

In December 2024, I issued my provisional decision outlining my intentions to partially uphold the complaint, I said:

"Miss Z acquired a car under a regulated credit agreement. SMF was the supplier of the goods under this type of agreement meaning they are responsible for a complaint about the supply and the quality of the car.

The Consumer Rights Act 2015 (CRA) covers agreements such as the one Miss Z 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.

Miss Z acquired a car that was around ten years old and had covered around 114,000 miles. Its cash price was £8,447. So, what would be considered satisfactory quality would be considerably different to if Miss Z had acquired the same car brand new and at a greater cost. As this was a used car with considerable mileage and age, it's reasonable to expect parts may already have suffered wear and tear when compared to a new car or one that is less travelled.

Having said that, the car's condition at the point of supply, should have met the standard a reasonable person would consider satisfactory - taking into account its age, mileage and price. The CRA says the aspects of the quality of the goods includes their general state and condition, alongside other things such as their fitness for purpose, safety, and durability. So, if I thought the car was faulty when Miss Z 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 SMF to put this right.

Engine repair

Miss Z first reported a burning smell one week into the agreement. The dealership accepted the car back for repairs and the engine was replaced. Given the short amount of time Miss Z had been in possession of the car, and the minimal mileage covered, before it required a new engine, I'm satisfied there was a fault with the car when it was supplied. I'm also satisfied that fault meant the car wasn't sufficiently durable and therefore wasn't of satisfactory quality when it was supplied - meaning there was a breach of contract.

The CRA provides a short term right to reject the car within the first 30 days if the car was of unsatisfactory quality. Miss Z did express a wish to reject the car within the first 30 days of the agreement. However, she later agreed to the car being repaired in October 2023, so she couldn't exercise her short-term right to reject until the dealership had reasonable time to carry out the agreed repairs.

Here, the repairs involved ordering, fitting, inspecting, and testing a replacement engine, and this was completed within two weeks – which I don't find to be unreasonable. That was the single opportunity of repair. After completion, contact records show Miss Z confirmed she was satisfied with the repairs and happy to keep the car.

Following the single opportunity to repair, the right to reject may then only be exercised in certain circumstances, such as the repair failing to fix the fault. Based on the evidence presented to me, I haven't seen sufficient evidence to persuade me that the engine remains faulty, so I find the repair fixed the fault.

Oil and coolant leaks

Our Investigator considered the car to be of unsatisfactory quality following the engine repair, as SMF failed to provide any evidence to support the additional issues weren't present at the point of supply, or a result of failed repairs. But for me to say SMF should agree to rejection, I must first be satisfied that based on evidence, these additional faults were more likely than not a result of a failed repair, or that they also made the car of an unsatisfactory quality when supplied.

The oil and coolant leaks were found in February 2024, around three months after the engine replacement. At this point, Miss Z had travelled around 1,675 miles in the car over a four-month period.

I've considered the response from the warranty provider, which says the parts were subject to wear and tear. It explained that the parts didn't qualify for a premature wear and tear assessment due to the car being over eight years old and having travelled over 80,000 miles. So, it follows that it's not unusual for a car with considerable age and mileage, like Miss Z's, to have existing wear and tear damage, however that wouldn't make the car of unsatisfactory quality at supply.

So, considering the age and mileage of the car when these issues were noted and fixed, alongside the fact that all of those parts are subject to wear and tear, I find it's more likely than not all of those parts needed to be fixed because of normal wear and tear and parts coming to the end of their life cycle. Equally there isn't enough evidence to say it was a result of the engine repair.

Other faults

In addition to the above, Miss Z has provided some evidence of other issues with parts including brake pads, discs, corroded brakes, fly wheel, air filter and perished lower arm console bushes. I've thought about whether these faults would indicate the car was of an unsatisfactory quality - and I don't think they do. All these parts noted are commonly

impacted by wear and tear and require regular replacement and general maintenance to keep a car roadworthy.

Miss Z has also provided an invoice from a third-party garage for a replacement radiator. But it's also not uncommon for a radiator to need replacing on a car with significant age and mileage.

Again, considering the age and mileage of the car when all these issues were noted, alongside the fact that all of those parts are subject to wear and tear, I think it is more likely than not that all of those also needed to be fixed because of normal wear and tear and parts coming to the end of their life cycle.

In summary, I find the engine fault made the car of unsatisfactory quality and SMF need to do more to put things right for Miss Z, which I'll go on to address below. But I don't find the other issues reported were a result of the engine repair failing or they also made the car of unsatisfactory quality. I consider all the other faults to be separate issues with serviceable parts that are a result of wear and tear. So, I won't be asking SMF to cover the cost of the further repairs or allow rejection of the car.

Putting things right

Having determined the car wasn't of satisfactory quality due to the engine fault, I've thought about whether SMF has done enough to put things right for Miss Z.

While the car was with the dealership awaiting the repair, she was paying for goods that she couldn't use. As the car was off the road due to it being of an unsatisfactory quality, and SMF failed to keep Miss Z mobile with a courtesy car; they should refund the equivalent of two weeks' worth of payments to reflect loss of use.

She said she was working unsociable hours at the time, making alternative transport particularly difficult for her. She was also inconvenienced by having to return to the dealership for the repair. So, I think SMF should pay £150 in compensation to reflect the distress and inconvenience caused.

As I find all other issues with the car to be the result of wear and tear, that do not make the car of an unsatisfactory quality when supplied, I don't agree SMF is responsible for the impact or cost caused by those faults. I realise this will come as a disappointment to Miss Z, but for the reasons I've explained, I don't think SMF need to do anything more than what I've set out above.

Responses to my provisional decision

Miss Z disagreed with my provisional decision. In summary, she said the car was poor quality, not worth the price she paid for it and could've caught fire because of the fault with the injectors, which put hers and other's safety at risk. She also said the dealership put a powder in the cooling system so the radiator didn't leak before they sold her the car.

Miss Z paid for an independent inspection to be carried out. She said the engineer couldn't find the engine number which she'd been told was common practice to conceal tracking information and mileage. She also said parts had been extracted and replaced with parts that aren't compatible and she's been quoted £5,100 for repairs.

The inspection report confirmed the current faults on the car included an oil leak, minor leak from the exhaust, slight play in the nearside drop link, split console bush, corroded discs, corroded front spring, coolant leak, throttle body fault and rear fog light fault. It also said the

diesel particulate filter (DPF) had been removed.

SMF didn't reply to my provisional decision. However, the inspection report was shared with SMF and they said the car would've failed its MOT if the DPF was missing at point of supply.

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 considered the new evidence Miss Z provided, I've reached the same outcome as I set out in my provisional decision. I'll explain why.

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 more likely than not to have happened given the available evidence and wider circumstances.

I'd first like to confirm that I've seen no evidence to support Miss Z's allegations of the dealership concealing faults on the car before supplying it to her. The evidence available does confirm there was an issue with the injectors, which made the car unsafe to drive due to the risk of fumes going into the cabin. And for this reason, it's accepted the car was of unsatisfactory quality when it was supplied. SMF have shown a replacement engine was ordered and fitted. And that the car had been test driven and deemed safe to drive. I'm therefore satisfied the engine was replaced and this repaired the fault.

As with any car, there is an expectation there will be ongoing maintenance and upkeep costs. There are parts that will naturally wear over time, and it is reasonable to expect these to be replaced. And with second-hand cars, it is more likely parts will need to be replaced sooner or be worn faster than with a brand-new car. So, SMF wouldn't be responsible for anything that was due to normal wear and tear whilst in Miss Z's possession. Here, the car was ten years old and had travelled 114,000 miles when Miss Z acquired it. All of the parts requiring repair are subject to wear and tear, so I'm satisfied it's more likely than not the faults confirmed within the independent report require repair because of normal wear and tear and parts coming to the end of their life cycle.

The wrong brake pads fitted and removal of the DPF is understandably concerning, and I note the amount Miss Z has been quoted for a replacement DPF is significant. However, for me to conclude that SMF should allow Miss Z to reject the car for this reason, I'd first need to be satisfied that the car was either supplied to her without the DPF, or the missing DPF was the direct result of the engine repair failing.

Based on the information available, it's not possible to say when exactly the brake pads were fitted or the DPF was removed. However, both brake pads and DPF checks are known to form part of an MOT test, and the DPF being removed would result in the car failing its MOT. Here, an MOT was carried out in March 2024, nearly six months after Miss Z acquired the car, which passed with the only advisory relating to corrosion to rear suspension components. I therefore think, on balance, it's more likely than not the DPF was fitted when the car was supplied to Miss Z and returned to her following the engine repair. If it wasn't, I would've expected the car to have failed its MOT. And for the same reason, I don't have enough evidence to conclude Miss Z was supplied the car with the wrong brake pads either.

I'd also note that prior to the inspection carried out in January 2025, the car had undergone a health check, diagnostics and inspections by various garages, none of which identified the removal of the DPF. It seems unlikely such a significant fault wouldn't have been identified

during all previous inspections and an MOT carried out on the car since being in Miss Z's possession, had it been supplied to her without a DPF.

Based on the above, I maintain that Miss Z was supplied with a car that was of an unsatisfactory quality, due to the issue with the engine, and SMF need to do more to put things right - as set out within my provisional decision. However, I don't have enough evidence to conclude the car was supplied to Miss Z with a missing DPF or incompatible parts fitted, and I find all other issues to be the result of normal wear and tear. So, I don't think SMF is responsible for the impact or costs caused by these faults and won't be asking them to accept rejection.

Lastly, I'm aware the agreement fell into arrears and Miss Z has indicated this is due to financial hardship. If this is still the case, I'd urge Miss Z to contact SMF to discuss her financial circumstances further and remind SMF to treat her with forbearance and due consideration.

My final decision

For the reasons explained, I've decided to partially uphold Miss Z's complaint and direct Specialist Motor Finance Limited to:

- Refund the equivalent of two weeks' worth of monthly payments to reflect loss of use;
- Pay 8% simple yearly interest on this refund, calculated from the date of payment to the date of the refund[†]; and
- Pay Miss Z £150 to compensate her for the distress and inconvenience caused.

[†]If SMF Limited considers that it's required by HM Revenue & Customs to withhold income tax from that interest, it should tell Miss Z how much it's taken off. It should also give Miss Z a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss Z to accept or reject my decision before 24 April 2025.

Nicola Bastin
Ombudsman