

## The complaint

Ms M complains about the quality of a used car that was supplied through a hire purchase agreement with STARTLINE MOTOR FINANCE LIMITED (SMF).

## What happened

The circumstances surrounding this complaint and my initial findings were set out in my provisional decision which said:

*In July 2021, Ms M acquired a used car through a hire purchase agreement with SMF. The car was about nineteen months old and had travelled 5,293 miles when it was supplied. The cash price of the car is listed as £12,450. A deposit of £1,000 was paid, so the total amount financed on the agreement was £11,450.*

*Ms M was due to make 48 repayments of £271.71 followed by a final repayment of £4,705.*

*Ms M complained to SMF about the problems she was having with her car. She said SMF advised that she should arrange for an independent inspection into the issues. Ms M isn't happy that she continues to make the repayments on a vehicle that she can't use.*

*Ms M says she's had to pay for alternative transport, which affects her and her family. She'd like to end her agreement, be refunded the deposit, and receive compensation for the time she spent without use of a car.*

*In January 2024 SMF issued their final response. In summary, it said that Ms M's concerns about the warranty should be directed to the warranty company. And in relation to the quality of the car, it required Ms M to obtain an independent inspection at her own cost for them to continue with their investigation.*

*Ms M brought her complaint to our service and one of our investigators looked into it. Within SMF's file submission they said they received a complaint in November 2023 about the issues with the car, and in the same month they asked Ms M to provide an inspection report confirming the issues were present or developing at the point of sale. They said Ms M provided a breakdown report. They concluded it was a sudden failure and not pre-existing. They noted that Ms M had more than two years of usage, covering around 8,000 miles since supply which they said meant the vehicle was fit for purpose at the point of sale. They considered the onus was on Ms M to prove the faults were present or developing at the point of sale.*

*Ms M said she first noticed the issues in July 2023 where her car wasn't starting. Ms M said she stopped using the car in August 2023 to ensure the issues didn't get worse. She said the warranty authorised the repairs in January 2024, but the dealership was waiting for the parts. They've since told Ms M a new issue was discovered, and they were waiting for the costs to be approved. Ms M says she wasn't given a courtesy vehicle.*

*Ms M confirmed to the investigator the car was repaired and returned to her around 20 February 2024.*

*The investigator didn't think that SMF acted fairly. They felt on balance the car wasn't suitably durable. They recommended that SMF refund to Ms M the repayments she made when the car was being repaired and 50% of the repayment in August 2023 for impaired usage and £200 in compensation for the distress and inconvenience caused.*

*SMF rejected the investigator's assessment. They said Ms M was able to travel over 7,000 miles since supply which supported their view that the vehicle was of satisfactory quality. They said no consideration was given to the servicing responsibilities Ms M had to maintain the car. They concluded that the issues experienced by Ms M were because of wear and tear and her failure to maintain the vehicle appropriately.*

*Ms M provided evidence to the investigator showing the vehicle was serviced in November 2020, March 2021, and July 2023. The investigator reviewed the servicing information however, their opinion remained unchanged. So as SMF didn't accept the investigator's opinion the case has been referred to me to make a final decision.*

I sent Ms M and SMF my provisional decision in January 2025. I explained why I didn't think the complaint should be upheld. The key parts of my provisional findings are copied below:

*In considering what is fair and reasonable, I've thought about all the evidence and information provided afresh and the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and (where appropriate) what I consider to have been good industry practice at the relevant time.*

*Ms M complains about a hire purchase agreement. Entering into consumer credit contracts like this is a regulated activity, so I'm satisfied we can consider Ms M's complaint about SMF. SMF is also the supplier of the goods under this agreement, and is responsible for a complaint about their quality.*

*The Consumer Rights Act 2015 (CRA) is relevant in this case. It says that under a contract to supply goods, there is an implied term that "the quality of the goods is satisfactory, fit for purpose and as described". To be considered as satisfactory, the CRA says the goods need to meet the standard that a reasonable person would consider satisfactory, considering any description of the goods, the price and all the other relevant circumstances. The CRA also explains the durability of goods is part of satisfactory quality.*

*So, it seems likely that in a case involving a car, the other relevant circumstances a court would consider might include things like the age and mileage at the time of sale and the vehicle's history.*

*My starting point is that SMF supplied Ms M with a used car that had travelled 5,293 miles. With this in mind, I think it's fair to say that a reasonable person would expect the level of quality to be less than that of a brand-new car with lower mileage; and that there may be signs of wear and tear due to its usage. Having said that, the car was priced at £12,450 which isn't insignificant. It also wasn't a particularly old vehicle. So, I think it is fair to say that a reasonable person would expect it could be used free from any major issues for a reasonable period of time.*

*From the information provided I'm persuaded there was a fault with the car. This is apparent from the breakdown report dated in September 2023 which advised the vehicle was overheating and cut out with white smoke from the exhaust, suspected head gasket fault. Having considered the car had a fault, I've considered whether it was of satisfactory quality at the time of supply.*

*satisfactory quality*

*In an email to the investigator Ms M said she first noticed an issue in July 2023. She provided a breakdown report dated 13 September 2023 confirming the car wouldn't start, was over heating with white smoke coming from the exhaust and suspected a head gasket fault.*

*So, although Ms M says she noticed some issues in July 2023 the evidence confirms an issue was present from 13 September 2023. The recorded mileage on the breakdown report as 13,232 which means Ms M had travelled around 8,000 miles in around two years and two months (when she acquired the car).*

*The CRA says goods which do not conform to the contract at any time within the period of six months beginning with the day on which the goods were delivered to the consumer, must be taken not to have conformed to it on that day.*

*However, in Ms M's case the car failed after two years from being supplied to her. So, I think it's reasonable to expect Ms M to demonstrate that the issues were inherent when she acquired the car.*

*The breakdown report confirms what it suspects to be the cause of the issues (head gasket fault). However, it doesn't comment on whether the suspected issue was present or developing when the car was supplied to Ms M. In the absence of any other expert evidence, I'm persuaded the issue was related to a failure of the head gasket.*

*Ms M confirmed in February 2024 to the investigator that the issue was repaired.*

*The investigator concluded the car wasn't suitably durable and referred to the fact it was relatively new when it was supplied, with low mileage, and that Ms M hadn't driven it excessively. And so they considered a head gasket failure was premature. I think this would have been more likely the case had there been no dispute over the maintenance of the car during Ms M's ownership of it.*

*I acknowledge the mileage is considerably low to expect that in normal circumstances the failure of the head gasket should occur. However, research suggests head gasket failure tends to be related to overheating. The regular maintenance of the vehicle would be vital to ensure the correct fluid levels were present, to prevent overheating.*

*Ms M provided a record of the servicing which was carried out on the car. It showed there was a gap of two years and four months between a service. A service was completed in November 2020, March 2021 (just prior to supply) and again in July 2023, which is also when Miss M says she started experiencing the issues. In consideration of what is looked at during a typical vehicle service, I think it's reasonable to conclude that the gap between servicing was likely to be a contributing factor to the issues Ms M experienced.*

*In the circumstances I think it was reasonable for SMF to expect Ms M to arrange an independent inspection of the car. So, the details of the failure and its root cause could be more clearly determined.*

*I acknowledge that in the whole, the car had only travelled around 13,000 miles before the head gasket failed. And I recognise in normal circumstances this would be considered as significantly premature, suggesting a lack of durability, however, I don't think it's reasonable to disregard the impact of missing a vehicle service interval.*

*Research suggests that typical ways to prevent head gasket failure is to maintain engine fluid levels and to ensure regular servicing. I'm persuaded the gap of two years and four months between services was likely when the damage to the head gasket would have occurred. When Ms M serviced the car in July 2023, it's likely the damage would have already been caused.*

*I recognise the impact the issue with the car has had on Ms M particularly as it had taken some months to repair the fault. However, without any expert evidence to suggest otherwise I'm satisfied the fault was likely caused by the gap between the second and third vehicle service. Ms M was able to travel around 8,000 miles without any issue, I'm persuaded an inherent issue with the head gasket or heating system would have presented itself sooner, and as such I won't be asking SMF to take any action in relation to this complaint.*

I invited both parties to make any further comments. SMF didn't respond. However, Ms M responded to say that she didn't accept my provisional decision. Ms M made some further comments which I'll address below.

Now both sides have had an opportunity to comment, I can go ahead with my 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.

Ms M has made a submission in response to my provisional decision. I have considered all of what it has said. The response included challenges to the conclusions I'd reached, but in the main, it didn't provide any new material or significant evidence for me to consider. I'll address what I consider to be the main points Ms M has raised and explain why these don't change the outcome I've reached.

Within her response Ms M made the following points:

1. An electrical fault prevented the car from producing a warning relating to overheating
2. The issues weren't picked up on the service in July 2023 and the car passed its MOT
3. The mileage, service and MOT demonstrate the car was maintained

The above is not exhaustive, but a summary of what I considered to be the main points raised in Ms M's response to my provisional decision. To be clear, I've considered all the information provided by both parties in relation to this complaint, however, to maintain the informal approach of this service I've focussed on what I've considered to be the main issues here.

The breakdown reports provided by Ms M advise of fault codes, including some relating to the battery and engine control unit (ECU). I acknowledge it could be thought this may have impacted the performance of certain warnings sensors that are controlled by the ECU. However, I'm also conscious the breakdown reports were generated following the vehicle experiencing issues. So, I'm not persuaded they prove the vehicle was experiencing these

issues previously. I've not seen any evidence that the warning sensors were impacted from when the car was supplied or at any time prior to when the issues occurred.

I think this is relevant, because I've not seen any evidence that suggests the car was inherently faulty when it was supplied. For example, that the ECU was not functioning effectively at the point of supply and therefore preventing the car from producing a warning relating to the engine.

Ms M said she didn't think the issues with the car was a result of a lack of maintenance, as she believed the issues came about after the service which took place in July 2023. Ms M's comments here further support the conclusion that the issues weren't developing or present when the car was supplied. The service carried out on a car is usually a routine health and maintenance check, designed to keep a vehicle running smoothly and efficiently. But it doesn't mean it will identify all issues with a car, even though the car was serviced in July 2023, I'm not persuaded at that point there was no issues with it. As explained previously, I think it's likely the damage to the head gasket would have already been caused.

Ms M said that the mileage, MOT and services demonstrates that she maintained the car. However, to ensure a vehicle is effectively maintained, its important the manufacturer's guidelines for servicing is observed. In this case, Ms M provided evidence which shows there was a gap of over two years between a service, which contravenes the manufacturer's guidelines. In their submission to us, SMF confirmed the manufacturer's recommended service intervals are 15,000 miles or one year, whichever comes sooner. Although Ms M kept the mileage reasonably low on the car, the gap in service was significantly beyond the recommendations. So, I'm not persuaded the car was suitably maintained by Ms M in line with the manufacturer's expectations. It follows that I'm persuaded this was a significant contributor to the issues with the car.

In her response to my provisional decision Ms M gave an insight into the impact the situation had on her health and her family, and I recognise this would have been a difficult time for her. However, I can assure both parties that I've considered all the evidence provided and believe on balance that my provisional findings are fair in the circumstances.

I still consider my provisional decision to be fair and reasonable. Neither party has added anything which gives me cause to change these. Therefore, for the reasons as set out above and in my provisional decision, I'm satisfied that the car was of satisfactory quality when it was supplied to Ms M. So, my final decision is the same.

### **My final decision**

My final decision is that I don't uphold Ms M's complaint about STARTLINE MOTOR FINANCE LIMITED

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 28 February 2025.

Benjamin John  
**Ombudsman**