

The complaint

Mrs S is unhappy with the settlement paid to her after she rejected a car supplied to her under a hire purchase agreement with Startline Motor Finance Limited ("SMF") which was of an unsatisfactory quality.

When I refer to what Mrs S and SMF have said, it should also be taken to include things said on their behalf.

What happened

In October 2022, Mrs S was supplied with a used car through a hire purchase agreement with SMF. The cash price of the car was £5,599 and Mrs S paid a deposit of £199, leaving £5,400 to finance over 38 months. Mrs S's payments were set at £184.26 per month. The car, when supplied, was eight years old and had done 97,300 miles.

In April 2023, Mrs S took the car back to the dealership because it had a fault, and it transpired that the head gasket needed replacing. The car was repaired in September 2023. When she collected the car, it went into limp mode. SMF advised Mrs S to get an independent report. For financial reasons, it was June 2024 before Mrs S arranged the inspection, and the mileage on the car at that point was 110,123. The inspection report concluded that it was likely the head gasket repair had failed. The dealership agreed that Mrs S could reject the car, and it was collected on 16 July 2024.

Mrs S said SMF told her it would retain 11 payments for the use she'd had of the car, and refund the rest. However, further payments were retained because of the damage identified on the return of the car.

Mrs S complained that SMF hadn't refunded the payments it had promised. It issued a final response to the complaint in October 2024 confirming that it would be retaining 16 payments for the usage and damage. SMF refunded £1,289.82 to Mrs S.

Unhappy with SMF's response, Mrs S brought her complaint to us.

Our investigator said SMF had unfairly retained the extra payments for damage. That was because the pre-sale photos showed damage already present on the car. Our investigator agreed that Mrs S ought to pay for her fair usage, so she wouldn't be entitled to a full refund, but our investigator didn't think SMF ought to retain the payments for damage. She also thought SMF should refund the cost of the independent report, the deposit, and pay interest on the refunded amounts. Our investigator noted that SMF had offered to pay £150 compensation for the delay in unwinding the credit agreement, which she thought was reasonable.

SMF didn't agree. It provided a list of the damage charges which didn't include the pre-sale damage, and said it was entitled to charge for damage which went beyond reasonable wear and tear. Our investigator said SMF hadn't provided sufficient evidence to show that the condition of the car on return was significantly different to its pre-sale condition. Because SMF 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 decided to uphold Mrs S's complaint for broadly the same reasons as our investigator.

Both Mrs S and SMF are aware of the details of this complaint, so I'll focus on the outstanding matters when reaching my decision. I'd like to reassure both parties that I've looked at and taken into consideration all evidence available.

The Consumer Rights Act 2015 (CRA) covers agreements such as the one Mrs S entered into. Under this agreement, there is an implied term that the goods supplied will be of satisfactory quality. If the car wasn't of satisfactory quality when Mrs S took possession of it, and after SMF had one chance to repair, under the provisions of the CRA Mrs S was entitled to reject the car.

Independent inspection report

In this case, Mrs S was asked to arrange, and pay for, an independent inspection. SMF gave details of suitable independent companies and Mrs S obtained a report. The report concluded that it was likely the original repair had failed. It was on receipt of this report that the dealership agreed Mrs S could reject the car.

Mrs S was required to obtain the report, and it led to the dealership's decision. Therefore, I'm satisfied that it's fair and reasonable that SMF should reimburse Mrs S for the cost. She has provided evidence to show that the inspection visit was on 5 June 2024 and she paid £276 for the inspection report, dated 14 June 2024. The paid invoice is dated 31 May 2024.

At this point, there's no dispute about the car's fault, and it was agreed that the credit agreement would be unwound. Further, there's no dispute that Mrs S had fair use of the car, or that it's reasonable for SMF to retain payments to cover that fair usage. The car travelled over 12,000 miles while in her possession, so I think SMF's decision to retain some of Mrs S's payments is fair and reasonable in the circumstances.

Therefore, I'm satisfied that I don't need to consider the merits of the issues regarding the car fault and fair usage within my decision. Instead, I'll focus on what I think SMF should do to put things right.

Damage

The key issue of complaint is that SMF retained additional payments to cover the repairs for damage it believed went beyond reasonable wear and tear, but which Mrs S didn't agree had happened while in her possession.

I accept SMF's more recent submission that it didn't charge for some of the damage which had been evident in the pre-sale photos. However, as our investigator explained, SMF didn't provide an itemised list of the damage for which it charged, or clear evidence that the damage had been caused during Mrs S's possession of the car.

SMF listed "Alloy wheel scuffs: £120 per wheel". It accepted that one alloy was missing altogether pre-sale, so in the interest of being cooperative and in good faith, it wouldn't include £120 in its damage calculation. It's worth noting that in the pre-sale photos, it's clear

that there's damage to at least two of the three alloys. Because of reflections, the third isn't sufficiently visible to conclude whether or not there's damage.

There's no evidence to support some of the charges, such as those for the damaged side mirror housing, scratches on the bonnet, scratched interior trim and stained carpet. In each case, it's because the same part of the car isn't visible in both pre-sale and return photos to show that there is a different in condition. It's also difficult to conclude that the bodywork is damaged when the pre-sale photos show a clean car, whereas the return photos show the car with mud and dust.

I've noted, in particular, the charge of £700 for the cracked dashboard. The photo of the passenger side of the dashboard shows what may be a crack – it appears that the left-hand side of the glove compartment is significantly misaligned. Looking at the pre-sale photos, the same damage is present. I haven't noted any other damage to the dashboard in either set of photos. SMF also charged £500 for worn leather seats. The seats do not appear to be leather, and I haven't seen any clear evidence of excessive wear for a car of this age.

I don't find that SMF has provided sufficient evidence to demonstrate the validity of the charges for damage. Therefore, I can't rely on the accuracy of any of the charges it applied for damage. For that reason, I'm satisfied that SMF ought to return to Mrs S any payments it retained for damage, including her deposit if it hasn't already refunded that.

I will also require SMF to pay interest on the payments it refunds to Mrs S, effective from the date she made payment to the date SMF issues the refund.

Compensation

SMF offered £150 compensation for its delay unwinding the credit agreement. The car was returned in July 2024 and the agreement was unwound in October 2024. I realise that during this time Mrs S was disputing the refund, but I think the delay unwinding the agreement was avoidable. That said, I'm satisfied that the offer is fair, and in line with what I would've expected for a delay such as this, and the associated inconvenience and distress caused. Therefore, I'm not asking SMF to increase its offer.

My final decision

For the reasons explained, I uphold Mrs S's complaint and Startline Motor Finance Limited must:

- refund to Mrs S the payments retained for damage;
- reimburse the cost of the inspection and report;
- refund Mrs S's deposit if it hasn't already done so;
- pay 8% simple yearly interest on all of the above amounts from the date of payment until the date of the refund*, and
- pay £150 compensation.

* If Startline Motor Finance Limited considers that tax should be deducted from the interest element of my award, it should provide Mrs S with a certificate showing how much it has taken off so she can reclaim that amount, if she is eligible to do so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 12 June 2025.

Debra Vaughan
Ombudsman