

## **The complaint**

Ms E is unhappy that a car supplied to her under a hire purchase agreement with Secure Trust Bank Plc trading as Moneyway ("Secure") was of an unsatisfactory quality.

When I refer to what Ms E has said and what Secure has said, it should also be taken to include things said on their behalf.

## **What happened**

In April 2023, Ms E was supplied with a used car through a hire purchase agreement with Secure. The cash price was £9,295 and Ms E paid a deposit of £600. The balance, plus the charge for credit, was payable at £217.73 over 59 months, with a final payment of £227.73 which included the option to purchase fee. The car was seven years old and had done 50,152 miles.

In August 2024, Ms E complained to Secure because her car needed a new engine. She said she'd taken the car to the dealership twice during the first six months after supply with clutch problems. The dealership subsequently closed down and Ms E took the car to her local garage for repairs. It was during this inspection that her local garage said the problem was caused by worn thrust washers and excessive movement of the crankshaft, and the engine needed rebuilding or replacing.

In its response to Ms E's complaint, Secure said that because more than six months had passed from when she got the car, she'd need to show that the fault had been present at the time of supply. Ms E provided Secure with a copy of the local mechanic's report.

Secure issued a final response to Ms E's complaint. It said there was no record of any reports to the dealership about a problem with the clutch. As more than a year had passed, and Ms E had done over 6,000 miles in the car, Secure didn't think it was responsible for any repairs. It said the fault was likely due to wear and tear.

One of our investigators looked into Ms E's complaint. He thought Ms E's evidence was persuasive and that Secure ought to end her credit agreement and take back the car. Our investigator also thought Secure should refund the deposit, some of the payments, a repair cost, and a percentage of road tax and insurance in recognition of Ms E's impaired usage.

Secure didn't agree. It said the MOT hadn't highlighted any problems, and there was no evidence that Ms E had the car serviced. Further, Secure supplied evidence from online sources indicating the most common cause of a defect with the thrust bearings and crankshaft was wear and tear.

I issued a provisional decision in February 2025, where I explained my intention to not uphold Ms E's complaint. In that decision I said:

*My role here is to look at the available evidence, having regard for relevant law and regulations, and decide whether it's more likely than not that Secure supplied Ms E with a car of unsatisfactory quality. Ms E was supplied with a car under a hire purchase agreement.*

*This is a regulated consumer credit agreement, covered by the Consumer Rights Act 2015 (CRA), which means we are able to investigate complaints about it.*

*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. In this case, I think the age, mileage, and cash price of the car are relevant. 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.*

*If I thought the car was faulty when Ms E took possession of it, or that it wasn't sufficiently durable – that is, not of a satisfactory quality - it'd be fair and reasonable to ask Secure to put this right.*

*To begin with, I've thought about whether the car had a fault. Although, Secure hasn't confirmed the fault, I have no reason to doubt the evidence Ms E has supplied, confirming that the engine needs to be replaced. So, I've gone on to think about whether the fault was likely to have been present at the time of supply.*

#### Repair invoices

*Ms E said she took the car to the dealership twice in the six months after supply, reporting a faulty clutch. To be clear, I understand that a problem with the clutch was the way the fault presented, and Ms E isn't now saying the clutch was faulty. The evidence supplied by the dealership shows that relatively minor repairs were completed to other, unrelated parts of the car, but there's no mention of the clutch.*

*The invoices supplied by the dealership show what work was done and I'm satisfied there's no mention of the clutch. Ms E said the dealership told her it couldn't find a fault, but I think it's more likely than not that a record would've been made that the clutch was inspected. Even if it was missed off one invoice, I think it's unlikely it would've been missed off two separate invoices over two separate visits.*

*So, based on this, I think Secure reasonably concluded that there was no evidence Ms E had reported problems with the clutch within the first six months.*

#### Mechanic's report

*I understand that Secure told Ms E she'd need to provide evidence that the fault was present at the time of supply because she hadn't reported the problem sooner. Given that Ms E didn't complain to Secure until around 15 months after receiving the car, and there's no evidence that she reported the problem to the dealership, I think it's reasonable that Secure asked her to obtain a report.*

*Looking at the report supplied by her mechanic, I'm satisfied that it describes the fault Ms E reported to Secure. However, I can't see anything in the report, or the accompanying video and photos, which indicate that the fault was likely present or developing at the time of supply. Nor does it state that the fault is not due to wear and tear. I'm not doubting that there's a fault, but the key point of the report would be to confirm that the fault was present at the time of supply rather than being caused by wear and tear. The report confirms neither.*

*When Ms E complained to Secure, the car was over eight years old. Ms E hasn't said she expected it to be free of wear and tear, but I can't conclude from her evidence that the fault she experienced here is anything other than wear and tear for a car of that age.*

### Invoices

*I've noted Ms E's comment that some of the invoices Secure referred to are dated after she got the car and she doesn't think they're accurate. I've considered the invoices, specifically those dated the first week of May 2023, and I note that the mileage is the same as that on the date of supply. Secure commented that the work indicated was carried out prior to supply, and I'm satisfied that the evidence supports this.*

### Servicing

*I've also noted Secure's comment that Ms E didn't have the car serviced in line with the manufacturer's guidelines. I'm not aware that Ms E was obliged to have the service done, and I can't conclude from the evidence whether it would've gone some way to identifying the issues here. However, as our investigator explained, the manufacturer's specifications indicate that a correctly serviced engine with good quality oil to constantly lubricate the parts is key to their longevity.*

*So, as there's no evidence that Ms E had the car serviced in line with the manufacturer's guidelines, it's not unreasonable to consider that it could've affected the parts' durability.*

### Conclusion

*In light of the evidence available, I'm not persuaded that Ms E has demonstrated that her car, more likely than not, was of unsatisfactory quality at the time of supply. I see she's had reasonable use of the car such that she was able to travel around 6,700 miles in the first year. I don't doubt that she's experienced some inconvenience, especially since being told she needs to have the engine replaced. But I can't fairly say that Secure is responsible for that inconvenience, or that there was anything for it to put right.*

*I'm aware that my provisional decision is brief, and summarises the events and evidence significantly. Our rules don't require me to comment on everything, but I'd like to reassure both Ms E and Secure that I've considered all the evidence available. So, unless I receive any further evidence which changes my mind, I'm not intending to uphold Ms E's complaint.*

### **Responses**

Ms E said she didn't think my provisional decision was fair for the following reasons:

- It has not been proven that the failure was caused by wear and tear.
- The MOT doesn't mean the vehicle is going to be roadworthy for the next 12 months.
- It was the thrust washer that failed, not the thrust bearing.
- Her mileage was below average and she compared it to another, older car with higher mileage which didn't have problems.

As Secure didn't say anything to the contrary, I'm taking that to mean it didn't object to my provisional 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.

To begin with, I think it's important to point out that it's not my role to determine what caused the problem with the car. I'm not qualified to do so, and our rules don't require it. As I

explained in my provisional decision, my role is to decide whether it's more likely than not that Secure supplied Ms E with a car of unsatisfactory quality based on the evidence available.

Ms E said it hasn't been proven that it's a wear and tear issue, but if I can prove it is then she will accept. She also pointed out that to prove the cause, the engine would need to be stripped down. In my provisional decision I explained that Ms E had used the car for around 15 months before she complained to Secure about the failure. The CRA sets out that a car should be of satisfactory quality based on what a reasonable person would consider satisfactory taking into consideration the relevant circumstances. There isn't a hard and fast deadline by which I'd expect a shift in responsibility to prove a fault from the seller to the buyer. But given the age of the car, with no evidence of reporting the fault to the retailer sooner, and Ms E's first report to Secure being 15 months after purchase, I think it's reasonable that the onus now lies with Ms E to prove that the fault was caused by something other than wear and tear.

In response to Ms E's view about both MOTs and services, I should explain that I didn't place any significant weight on Secure's comment about the MOT when reaching my decision. In respect of the service, I understand that manufacturers recommend different service intervals. However, I also understand that it's not a fixed mileage requirement or period of time. Rather, it's generally considered to be a 'whichever is sooner' approach. Regardless of this, I placed limited weight on Secure's comment and said only that it was *"not unreasonable to consider that [the potentially missed service] could've affected the parts' durability"*.

I've noted what Ms E said about an older model car with higher mileage not having any problems with the thrust washer. However, I can only base my decision on the specific circumstances relating to Ms E's car. I do understand that 6,700 miles is not excessive for the period in question, but it does show that Ms E was able to use the car. And wear and tear can result from factors other than just distance travelled. However, it just brings me back to the point that it's Ms E's responsibility to prove it's not wear and tear should she want Secure to reconsider its position.

The final point I'll address is the thrust washer and thrust bearing. I noted that Secure referred to the part as a bearing whereas Ms E's mechanic referred to it as a washer. Based on technical advice provided, and consideration of labelled technical diagrams, I understood that the fault shown in the photos and video evidence was the bearing. I also identified that the part is referred to as a washer or bearing interchangeably. Whether or not that is accurate is irrelevant to my decision. That's because regardless of whether it was a washer, a bearing, or one and the same thing, it remains Ms E's responsibility to show that the part was likely to have been damaged when the car was supplied to her rather than having been caused by expected wear and tear.

The evidence currently available doesn't persuade me that the car was, more likely than not, of unsatisfactory quality at the time of supply.

As such, Ms E's comments don't change my view about her complaint and, given this, I see no compelling reason why I shouldn't now adopt my provisional view as my final decision.

### **My final decision**

For the reasons explained, I don't uphold Ms E's complaint about Secure Trust Bank Plc trading as Moneyway.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms E to accept or

reject my decision before 3 April 2025.

Debra Vaughan  
**Ombudsman**