

The complaint

Mr V complains about a car supplied to him using a hire purchase agreement taken out with Specialist Motor Finance Limited ("SMFL").

What happened

In May 2023, Mr V acquired a used car using a hire purchase agreement with SMFL. The duration of the agreement was 60 months, where 59, regular monthly payments of £615.96 were to be paid, followed by a final payment of £625.96 which included a £10 option to purchase fee. A deposit of £2,718 was recorded on the agreement and so was the cash price of the car which was £25,199. The car was around five and a half years old at the point of supply and SMFL say its mileage at the time it was supplied was around 80,907 miles.

Within a week of acquiring the car, Mr V complained to the supplying dealership as he believed there were issues with the car. Mr V later got the car diagnosed by a third-party ("Garage A") when the mileage of the car was 81,379 miles. Emails between Mr V and the supplying dealership said that the quote given for repairs by Garage A was higher than expected, so the supplying dealership wanted another quote from a different third-party.

Mr V also complained to SMFL about the condition of the car supplied to him.

Mr V took the car to another third-party ("Garage B") around two weeks later. The vehicle inspection was carried out at 82,065 miles and it was dated 21 June 2023. The inspection report said that the car needed to be supplied and fitted with a new engine, turbo and all relevant parts. In addition, new brake pads, discs and sensors needed to be fitted to both the front and rear of the car, alongside a track rod end and a door handle to one of the doors of the car. Mr V said he was advised by Garage B not to drive the car due to imminent engine failure.

Mr V said he was told by his warranty company that Garage B's quote was too much, and so it was arranged for the car to be collected and repaired by another third-party ("Garage C"). The car was arranged to be picked up on 7 July 2023, and expected it to be returned back on 25 July 2023.

SMFL gave Mr V their final response on 10 July 2023. They upheld Mr V's complaint. They said Mr V accepted repairs of the car as a resolution to the matter. As a gesture of goodwill, SMFL agreed to credit Mr V's account by £150 to reduce the monthly payment he would have been liable for. They didn't think they needed to do anything more.

Mr V said the car was returned to him on 4 September 2023, much later than what was agreed. And later in the month, the EML light appeared again. So, Mr V felt the problems had not been resolved. The car was inspected and repaired by Garage B and the proforma invoice recorded its mileage as 82,349.

The proforma invoice from Garage B dated 26 September 2023 said:

“Checked and confirmed EML on... filled coolant and bled to ensure no air in system, all OK. Cleared fault codes and carried out drive cycles as stated on [system name] under fault code descriptions. EML did not appear all ok.

Checked car over after having engine repair done elsewhere – from what is visible all looks to be ok.”.

In October 2023, the car’s MOT failed. Its mileage at the time was 83,191 miles. The MOT check said:

“Nearside Rear Outer Drive shaft joint constant velocity boot split or insecure, no longer prevents the ingress of dirt boot torn...”.

Mr V said the car broke down on 16 November 2023 and it was undriveable. Mr V said the car was towed away and since this date, Mr V didn’t have access to it.

A quote for repairs by Garage C said:

“Replace failed Turbo, change oil and filter”.

The mileage on the quote was 84,079 miles.

Mr V said he hired a car to remain mobile, at a cost of £317.59.

Mr V said that in an attempt to resolve the complaint he made a number of offers, to cover part of the turbo repairs. But he later explained he no longer wished to do that and rather wanted to reject the car. He said he was continuing to pay tax and insurance towards the car, but he said he did stop monthly payments towards the agreement, which later impacted his credit file.

In January 2024, SMFL sent Mr V an email. In summary, they said that as Mr V accepted repairs to the car, he was no longer able to reject it.

Unhappy with SMFL’s responses, Mr V referred his complaint to our service in January 2024.

Our investigator issued their view in March 2023 where she upheld Mr V’s complaint. In summary, she thought the car had a fault and that there was a failed repair to the turbo. Our investigator believed Mr V could reject the car. She also thought Mr V should be reimbursed for the occasions he wasn’t able to use the car, such as when he was informed it was unsafe to drive, when it was taken in for repairs, and also when he didn’t have access to it. Our investigator also thought SMFL should pay £250 for the distress and inconvenience caused by this complaint.

Mr V provided documents to show additional costs incurred towards the car. Among other things, Mr V provided:

- An email to show a direct debit schedule set up with DVLA to pay for the car’s road tax.
- An invoice to show a car hired between 16 November 2023 and 22 November 2023 (charged for 5 days) at a cost of £317.59 in total.
- A quote he received to renew his car insurance policy in September 2023.
- An invoice dated 31 October 2023 to show repairs carried out to ensure the car could pass its MOT. The amount paid was £130.

Mr V also said he incurred costs for two diagnostic checks completed to the car at a cost of £160 each, public transport costs (which totalled £1,268), and taxi costs (which totalled £432). Mr V didn't provide proof of payment regarding these costs to our service.

Our investigator issued a further view as Mr V supplied invoices of additional costs incurred. Among other things, our investigator thought it was fair for Mr V to be reimbursed:

- the costs he incurred in having health checks and diagnostics completed on the car in order to determine the cause of the fault.
- a pro rata of his tax and insurance.

Our investigator didn't think it was fair for SMFL to reimburse costs for:

- repairs carried out to the car for it to be able to pass its MOT in October 2023, as she didn't feel SMFL had the opportunity to consider the issue which made the car fail its MOT.
- Costs for a hire car, as she was already asking SMFL to reimburse the monthly payment for when the car was hired.

Mr V accepted our investigator's findings. SMFL didn't respond to our investigator's findings, so the complaint was referred for a final decision.

While waiting for a decision, SMFL supplied their file for this complaint. Our investigator issued a further view. In summary, among other things, she felt that Mr V should still be able to reject the car.

As SMFL didn't respond to our investigator's most recent view, the complaint was passed to me to decide.

I issued a provisional decision on 10 February 2025 where I explained why I intended to uphold Mr V's complaint. In that decision I said:

"I have noted that SMFL have issued a final response on 10 July 2023 and this complaint was referred to our service on 15 January 2024, over six months after the date the final response was issued. So, I can't consider aspects of the complaint that were addressed in that final response. However, I can see that Mr V complained to SMFL again about the quality of the car, as further events occurred after 10 July 2023. And I'm satisfied SMFL have had eight weeks to respond to this further complaint. So, it follows that I'm satisfied I can consider it. In order to consider this further complaint, I will still need to consider the history of faults and repairs carried out to the car, which may have been addressed in the July 2023 final response.

Mr V complains about a car supplied to him under a hire purchase agreement. Entering into consumer credit contracts such as this is a regulated activity, so I'm satisfied I can consider Mr V's complaint about SMFL.

When considering what's fair and reasonable, I take into account relevant law and regulations. The Consumer Rights Act 2015 ("CRA") is relevant to this complaint. The CRA explains under a contract to supply goods, the supplier – SMFL here – has a responsibility to make sure goods are of satisfactory quality. Satisfactory quality is what a reasonable person would expect – taking into account any relevant factors.

I would consider relevant factors here, amongst others, to include the car's age, price, mileage and description. So, it's important to note that the car Mr V acquired was used, around five and a half years old, had been driven for around 80,900 miles, and cost over £25,000. I think a reasonable person would accept that it would not be in the same condition as a new car and was likely to have some parts that are worn. But a reasonable person would still expect the car to be free from larger faults and would've expected trouble free motoring for some time.

What I need to consider is whether the car was of satisfactory quality when it was supplied. And in order to do that, I first need to consider whether the car developed a fault.

Had the car developed a fault?

I have seen a copy of an inspection carried out by Garage B from June 2023, when the car's mileage was around 82,000 miles. Mr V said he was advised not to drive the car due to imminent engine failure. The car inspection said:

"SUPPLY AND FIT NEW ENGINE, TURBO AND ALL RELEVANT PARTS

Checked and confirmed engine rattling when running. Checked codes and found code... Also heard knocking from engine on startup and lack of power... Vehicle requires new engine and possible turbo depending on condition once removed."

Considering the above, I'm satisfied the car had a fault with its engine and possibly with its turbo in June 2023. Mr V said the car then broke down on 16 November 2023 and it was undriveable. A quote for repairs provided by Garage C said the car's mileage at the time was 84,079 miles. The quote said:

"Replace failed Turbo, change oil and filter".

While I appreciate the quote doesn't specifically identify a fault and explain in detail the diagnostics carried out to determine this, I'm satisfied it is likely there is a fault to the car's turbo. I say this because, the inspection from June 2023 initially noted the turbo might need replacing and that it needed to be inspected to see its condition once it was removed. The car was later repaired by Garage C, but job sheets haven't been supplied. So, I can't be sure what repairs were carried out and whether the turbo was inspected and/or repaired. But considering the above, and the June 2023 inspection by Garage B saying that it needed to be inspected, and a quote then being supplied to replace the turbo, I'm satisfied that there was a fault with the turbo.

I've also noted that the supplying dealership and SMFL haven't disputed there being a fault with the car.

Was the car of satisfactory quality?

Considering the age of the car, and when it broke down after the car being acquired, and it having only been driven a few thousand miles since being acquired, I'm satisfied the fault with the engine and turbo was likely present or developing at the point of supply, which meant it wasn't of satisfactory quality.

Remedies available to Mr V under the CRA

I've now gone on to consider Mr V's rights under the CRA and the remedies available to him. I've also thought carefully about SMFL's comments as they believe an offer of £730 was

made to Mr V, to have the car's turbo repaired. SMFL say that Mr V hasn't allowed the car to be repaired.

One of the remedies available to Mr V under the CRA is repair. But I think SMFL have already had the opportunity of repair and I now think it is fair and reasonable for Mr V to be allowed to reject the car.

I say this because, while I can't be sure whether the fault to the turbo in November 2023 was due to a failed repair or unrelated to the original repairs carried out by Garage C, section 24(5) of the CRA says:

"a consumer who has ... the right to reject may only exercise [this] and may only do so in one of these situations – (a) after one repair or replacement, the goods do not conform to contract."

This is known as the single chance of repair. And this applies to all issues with the goods, and to all repairs i.e. it's not a single chance of repair for the dealership and a single chance of repair for SMFL – the first attempted repair is the single chance at repair. What's more, if a different fault arises after a previous repair, even if those faults aren't related, the single chance of repair has already happened – it's not a single chance of repair per fault.

In this case, there was an attempt at repair with the engine. But then a different fault arose with the turbo.

So, I'm satisfied SMFL have already had the opportunity to repair the car and I think it failed or the car had an underlying fault with its turbo that was never put right.

Another option would be a replacement for the car. However, in this instance, I don't think this remedy would be fair to SMFL as I don't think it would be reasonable and practical for them to be able to source a like for like replacement, with the same mileage, colour, features etc...

This means the available option for Mr V in this instance is rejection, which I understand he would also prefer. I'm satisfied Mr V has the right to reject the car, given the car was of unsatisfactory quality. And I think this is fair because SMFL has already had the chance to repair the car and I don't think it is practical for them to find a replacement.

Loss of use

Mr V said he didn't have use of the car since 16 November 2023, when it broke down. With this in mind, I think it is fair that Mr V is reimbursed monthly payments he has made to the agreement from 16 November 2023 up until when the agreement ends and the car is returned. I'm aware that Mr V may have stopped making payments towards the agreement. If this was the case SMFL only need to reimburse payments actually made and not hold Mr V liable for any arrears nor associated charges.

Considering that I'm satisfied the car wasn't of satisfactory quality at the point of supply and that SMFL needs to do more to put things right, I'm satisfied adverse information reported to Mr V's credit file after 10 July 2023, should also be removed. If SMFL had enabled Mr V to reject the car when it should have, this wouldn't have occurred. So, Mr V shouldn't be negatively affected by it.

Other costs

Mr V feels he should be refunded the cost of taxing and insuring the car. However, I don't agree these costs should be refunded, and I'll explain why.

Insurance – It is a legal requirement that a motor vehicle is both taxed and insured. This is needed whether the vehicle is being driven or not. The insurance covers the vehicle for risks not associated with being driven, i.e. fire, theft, and third-party damage, so Mr V was still benefitting from the insurance payments, whether he was driving the car or not.

Tax - Regarding the road tax, if a motor vehicle isn't being used, it can be declared as being off the road through a SORN. This mitigates the need to pay road tax, and this is something Mr V was able to do.

Car hire – Mr V also provided an invoice to show a car hired for 5 days at a cost of £317.59 in total. I don't think it would be fair to SMFL to reimburse the cost Mr V has paid to hire another car. I say this because I will already be directing SMFL to reimburse monthly payments Mr V made towards the car since it broke down from 16 November 2023. So, it wouldn't be fair for SMFL to reimburse both the hire cost as well as a pro rata of the November 2023 monthly repayment.

Repairs carried out after a MOT test – Mr V provided an invoice dated 31 October 2023 to show repairs carried out to ensure the car could pass its MOT. The amount paid was £130. I can't see SMFL has been given the opportunity to investigate matters here, so I don't think it would be fair to ask them to reimburse this amount.

Mr V also said he incurred costs for two diagnostic checks completed to the car at a cost of £160 each. Mr V hasn't provided proof of payment for these two diagnostic tests or showed that it was in relation to the November 2023 fault. However, if Mr V commissioned a diagnostic or inspection report in order to diagnose the November 2023 fault, then I think SMFL should reimburse him for this, subject to showing proof of payment made to SMFL.

Mr V also said he incurred public transport costs (which totalled £1,268), and taxi costs (which totalled £432). Mr V didn't provide proof of payments made regarding these to our service or has been able to show that these journeys were made as a result of the car breaking down in November 2023. I don't think it would be fair to SMFL to reimburse the cost Mr V has paid for public transport. I say this because I will already be directing SMFL to reimburse monthly payments Mr V made towards the car since it broke down from 16 November 2023. So, it wouldn't be fair for SMFL to reimburse both public transport costs as well as a pro rata of the November 2023 monthly repayment.

Distress and inconvenience

I've also thought carefully about the distress and inconvenience Mr V has suffered in relation to this complaint.

I'm mindful of the impact this complaint has had on Mr V, considering the fault to the car, and it being undriveable since November 2023. With that in mind, I think £300 is a fair amount to reflect the inconvenience caused to Mr V."

I set out that I intended to uphold this complaint. And I gave both parties the opportunity to send me any further information or comments they wanted me to consider before I issued my final decision.

Responses to the provisional decision

Mr V said he didn't receive the final response from SMFL in July 2023.

Mr V also said that he believed monthly rentals should be reimbursed from 7 July 2023 up until 4 September 2023.

Mr V then said that SMFL have confirmed to credit reference agencies in February 2025 that the information on his credit file was correct and that this occurred after I had issued my provisional decision.

Mr V then asked if I could instruct the supplying dealership to refund the advance payment paid as he was not confident that SMFL would pay it, given their actions to date.

SMFL didn't respond before the deadline set in 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.

Having done so, I'm not persuaded to change my opinion from the provisional decision I made.

Mr V disputes receiving the July 2023 final response from SMFL. I have addressed this point in a separate decision I have issued and so will not make any more comments about it.

Mr V believes monthly rentals between 7 July 2023 to 4 September 2023 should also be reimbursed, in addition to what I intended to direct SMFL to do. These were matters addressed in the July 2023 final response, so again won't make any more comments about it. But it is worth noting that SMFL were not responsible for the car being repaired and so, if Mr V is unhappy with how long it took for repairs to be carried out, then he should direct it to the garage that made the repairs or to his warranty company.

Turning my attention now to the questions Mr V had relating to his credit file. To be clear, SMFL did not have to act on the directions I intended to make in my provisional decision. My provisional decision was just that, a decision which I provisionally reached and invited both parties to respond to. However, as I am reaching the same outcome in this decision, I would expect SMFL to put things right as directed below within a reasonable time, if Mr V accepts it.

And finally, my decision is in relation to whether SMFL has acted fairly or not and isn't directed towards the supplying dealership. So, I can't ask the supplying dealership to refund the advance payment on behalf of SMFL. This is a matter for SMFL to resolve with the supplying dealership and I would expect SMFL to put things right as directed below within a reasonable time, should Mr V accept this decision.

In summary, I think SMFL needs to do more in this instance to put things right. I'm satisfied the outcome reached is fair and reasonable given the circumstances.

My final decision

For the reasons I've explained, I uphold this complaint and I instruct Specialist Motor Finance Limited to put things right by doing the following:

- End the agreement with nothing further to pay (if this has not been done already).
- Collect the car at no further cost to Mr V (if this has not been done already).
- Refund Mr V's deposit of £2,718. If any part of this deposit was made up of funds through a dealer contribution, SMFL doesn't need to refund this amount. *

- Pay a refund of monthly payments made towards the agreement from 16 November 2023 to when the agreement ends and the car is collected. *
- Refund Mr V the cost of any diagnostic tests completed on the car to determine the fault with the turbo in November 2023. This should be paid to Mr V on production of evidence to SMFL to show payment was made by him. *
- Pay a further amount of £300 for any trouble and upset that's been caused due to the faulty goods.
- Remove any adverse information from Mr V's credit file in relation to the agreement, that has been reported by SMFL after 10 July 2023, if any.

* These amounts should have 8% simple yearly interest added from the time of payment to the time of reimbursement. If SMFL considers that it's required by HM Revenue & Customs to withhold income tax from the interest, it should tell Mr V how much it's taken off. It should also give Mr V a tax deduction certificate if they ask for one, so they can reclaim the tax from HM Revenue and Customs if appropriate.

If SMFL has already given compensation in relation to this specific complaint, the final amount should be less the amount already given.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr V to accept or reject my decision before 9 April 2025.

Ronesh Amin
Ombudsman