

The complaint

Mr M complains about the information he was given when he acquired a used car. He acquired the car through a hire purchase agreement with STARTLINE MOTOR FINANCE LIMITED ('Startline').

Mr M says that Startline, or the credit broker Car Finance 247 ('CF247'), told him that he was protected by the consumer rights act and that if anything 'major' were to go wrong with the car within six years it could be repaired, replaced, or refunded.

What happened

Mr M's complaint is about the information he was provided when he acquired a car in October 2022. The car was used, and it was first registered in September 2016. Mr M acquired the car using a hire purchase agreement that was also started in October 2022. The vehicle had a retail price of £21,464. Mr M paid a £224 deposit meaning £21,240 was financed. This agreement was to be repaid through 58 monthly instalments of £541.70 followed by one of £551.70.

Mr M has complained to Startline about the quality of the car, and this new complaint came about during communications within this first complaint. Mr M's complaint about the quality of the car has already been considered by Startline and by the Financial Ombudsman Service. An Ombudsman has issued a decision about this. I won't be able to reconsider this aspect of Mr M's complaint and I'm only considering the further issues about the sale of the car that he subsequently raised.

Startline has considered this second complaint, but it's reasonable to say it thinks that Mr M's concerns have mostly been previously addressed. It has acknowledged that his recent complaint about 'mis-selling' has not been considered. But having reviewed the calls it had; it couldn't see that Mr M was misled during the sales process. And his claim that he would be protected for six years without exception under the Consumer Rights Act ('CRA'), was unreasonable.

Our Investigator, at first, didn't think we should consider this complaint as it was too closely related to the complaint that an Ombudsman had already considered. But after some correspondence he didn't uphold Mr M's complaint. He said that there wasn't enough evidence to support what Mr M said about him being misled at the time of sale.

Mr M didn't agree with the Investigator. He said a missing call was critical evidence that would prove the misrepresentation and he thought it was deeply unfair that he was being asked to provide proof of this, when it should be Startline that does this.

There was some further correspondence and Mr M provided the call recordings and evidence that he had. Our Investigator didn't change their opinion. Because Mr M 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.

In considering what is fair and reasonable, I need to have regard to the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and (where appropriate) what I consider was good industry practice at the relevant time.

The agreement in this case is a regulated hire purchase agreement – so we can consider a complaint relating to it.

Mr M says he was given false information by the dealership about the quality guarantees he would have under the CRA, and this led to him entering into the finance agreement for it. He essentially says that he thought the car would be guaranteed in the event it had a 'major fault' within the first six years of his ownership.

I understand that Startline wasn't a party to some of the sales negotiations, and it may not have been aware of what was discussed between Mr M and CF247. But it can still be responsible for what was discussed and the information that Mr M was provided by a broker or car dealer. This is because section 56 of the Consumer Credit Act 1974 establishes that a finance company can be held responsible for antecedent negotiations carried out by their agent that take place before the agreement is entered into.

So, to uphold this complaint, I need to be satisfied that a misrepresentation has taken place. I would need to see that a false statement of fact about the guarantees had been made, and this false statement induced Mr M into entering into the agreement.

Mr M says he was told in a call with CF247 that if there were problems with the car within the first six years they would be rectified, even if this was in the form of a car rejection or replacement. Startline and CF247 say they wouldn't have given this guarantee.

It's been established that this call is no longer available. I can see that some of the correspondence does refer to the contents of the call, so it seems reasonable to say it was available at some point. But it isn't now. Both our Investigator and Mr M have requested all the calls and information from Startline and, as far as I can see, everything it has was provided. Which includes the calls it has between Mr M and CF247. I have enough to make a fair decision here.

The situation is that the two parties to the complaint don't agree about what was said to Mr M. It is fair to treat each parties version of events as equally likely and so to uphold the complaint about what Mr M has said I would need further evidence to show what he says is the most likely version of events, on the balance of probabilities. I don't have this in the form of the call recordings. And there isn't any written communication that refers to this guarantee. So, there isn't any further direct evidence that Mr M was misled. I'm not persuaded that Mr M's version of events is more likely than Startline's, given the evidence I have.

I've also thought about the nature of the information that Mr M said he was given. Mr M essentially said he was told he would receive a six year guarantee on a used car, for any 'major fault'. This was because of the provisions in the CRA. For the avoidance of doubt the CRA doesn't contain provisions to this affect.

And this is a much more extensive guarantee, or warranty, than a car dealer or finance provider would usually offer on a used car. It is more that most new cars offer. Where this

kind of significant guarantee was offered, or implied, I would have expected some further discussion about it. But I've listened to the sales calls I have been provided and looked at the documentation about the sale of the car, and this isn't talked about or described at all.

I think that this issue was not talked about at other times is indicative that it may not have been discussed in detail, or formed a significant part of the sales process in any event, and so may not have influenced Mr M's decision to acquire the car.

So, having considered everything I don't think it's likely that Mr M was told that the CRA gave him this protection, or that he relied on this when he acquired the car.

Mr M has commented in detail about how he thinks the car wasn't of satisfactory quality and he has, at times, said he would like this aspect of his complaint reconsidered. I appreciate he has also said that he doesn't want this part of his complaint reconsidered it. But for the avoidance of doubt, the rules and laws that underpin the Financial Ombudsman Service are such that a complaint cannot be reconsidered at the Financial Ombudsman Service after an ombudsman has issued a final decision. I cannot reconsider Mr M's complaint about the quality of the car.

Mr M has outlined in some detail the rules and regulations under which he says Startline has failed to protect his interests. Whilst I have noted what he has said, to say that Startline has not met its regulatory obligations I do need to be able to say he was misled, and I don't think this is the case. So, I don't think I need to comment on these to reach a fair decision.

I can see that Mr M feels very strongly about this issue and this will not be answer he wants. I hope my decision doesn't cause him any further distress. But I do not uphold Mr M's complaint and I make no award.

My final decision

For the reasons set out above, I don't uphold Mr M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 15 May 2025.

Andy Burlinson
Ombudsman