

The complaint

Ms A complains that the vehicle she acquired through Specialist Motor Finance Limited ("SMFL") wasn't of satisfactory quality. She wants to reject the car and have the credit agreement cancelled.

What happened

Ms A entered into a hire purchase agreement in September 2022 to acquire a used car. The cash price of the car was £13,000 and was to be repaid through the credit agreement which was set up over a term of 60 months. Ms A's monthly payments were £398.69, resulting in the total repayable under the agreement, if it ran to term, being £23,931.40. At the time of acquisition, the vehicle was just over five years old and had been driven nearly 50,000 miles.

Ms A told us:

- Upon purchasing the car, it was discovered that the air-conditioning (A/C) unit was not functioning properly. She notified SMFL and it liaised with the supplying dealership which arranged a repair at a local garage;
- the A/C still didn't work, so SMFL told her to return the car to the garage for diagnostics, where a recommendation was made to replace the condenser due to being unable to identify the source of the leak;
- this repair failed, and the car was returned on SMFL's instruction to the supplying dealership for further diagnosis and repairs;
- during these subsequent repairs, the A/C compressor and A/C pipes were replaced, but when the car was returned to her, the A/C was still malfunctioning;
- she approached a garage that was local to her, and one that she trusted to seek independent advice and was told that its inspection revealed that the leak causing the air conditioning malfunction was coming from the A/C compressor, not the condenser as initially claimed by the previous garage;
- despite previous repairs, a fault remains with the A/C system, and she wants to reject the car, cancel the credit agreement, and be compensated for the inconvenience and stress she's been caused;
- she's experienced significant inconvenience having to take the car to garages on multiple occasions; she paid for diagnostics and analysis; and had to pay for alternative transport whilst the car was being looked at. Ms A says the combination of financial strain, stress, and anxiety resulting from the ongoing issues with the vehicle has significantly disrupted my daily life and overall sense of well-being.

When SMFL first looked at Ms A's complaint about the A/C, it said that *"a new condenser and AC pipe...will fix the issue. We have covered the cost of this even though it has been rejected under warranty...due to the diagnostic you paid for and the inconvenience of being without your vehicle we would like to offer you compensation of £75"*.

When the A/C malfunctioned again, Ms A says she complained to SMFL, and when no response was forthcoming, she brought her complaint to this Service.

Ms A told this Service about the other complaints she had about faults and issues with the car, some of which had been upheld. These included but were not limited to an upheld complaint that the advertisement for the car did not match the car's specification; issues with the car's suspension; problems with the electric mirrors; issues with Bluetooth connectivity. But she did say that *"this complaint pertains to unresolved issues with the malfunctioning air conditioning system, which was a pre-existing condition not disclosed at the point of sale"*.

Our Investigator looked at this complaint and said that she thought it should be upheld. She said there were clearly things that had been wrong with the vehicle. Some of the faults that Ms A complained about were, our Investigator concluded, simply wear and tear and commensurate with a car of its age and one that had been driven nearly 50,000 miles. And there were other faults that Ms A had mentioned; parking sensors, braking system or loss of power but our Investigator said she'd seen no evidence to support these claims.

But our Investigator did conclude that the repairs to the A/C system had failed. She said that the A/C system was faulty at the point of supply; SMFL had arranged repairs in January 2023, but when Ms A next came to use it the following Summer, there were further issues with it that necessitated further work on it in September 2023, with further problems arising in April 2024.

Our Investigator explained the relevance of the Consumer Rights Act 2015 ("CRA") in the circumstances of this complaint, and she concluded that the car supplied was not of satisfactory quality, there'd been attempts at repair, and these repairs had failed. Because of this she recommended that SMFL accept rejection of the car, and she asked it to pay £200 compensation for the distress and worry it had caused.

Ms A accepted these recommendations, but SMFL did not, so the complaint comes to me to decide. SMFL says Ms A didn't notice the failed repair until 12 months after acquiring the car, so the onus was on her to provide evidence of the fault, something she's not done. And it called into question the gap between Ms A identifying the fault with the A/C in July 2023, and her approaching the garage in September 2023, and concluded that she must have been happy to use the car even if the A/C wasn't working.

SMFL said it was unsure how a malfunctioning A/C system *"has caused any distress for Ms A considering that she has accrued 27,144 miles since purchase – this demonstrates the vehicle was clearly of satisfactory quality"*.

Our Investigator approached Ms A to seek her comments on what SMFL had said. Ms A told this Service that *"despite claims that it was repaired, the system continues to not function, which strongly suggests that the repair was either not carried out properly or that the necessary part was never replaced. If the system had genuinely been repaired, it would be highly unlikely for it to fail again so soon" ... "The air conditioning issue was not apparent during colder months, which is reasonable and a seasonal behaviour. I only noticed it wasn't working again when I attempted to use it in July 2023"*.

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 considered all the evidence and testimony afresh, I've reached the same conclusion as our Investigator and for broadly the same reasons. I'll explain why.

The hire purchase agreement entered into by Ms A is a regulated consumer credit agreement which means that this Service is able to consider complaints relating to it. SMFL

is also the supplier of the goods under this type of agreement, and it is responsible for a complaint about their quality.

The Consumer Rights Act 2015 (“CRA”) is relevant to this complaint. It says that under a contract to supply goods, there is an implied term that the “quality of the goods is satisfactory”. To be considered “satisfactory” the goods would need to meet the standard that a reasonable person would consider satisfactory – taking into account any description of the goods, the price and other relevant factors. Those factors, in the case of a car purchase, include things like the age and mileage of the car at the time of sale, and the car’s history.

The CRA says the quality of the goods includes their general state and condition and other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability can be aspects of the quality of goods.

Despite the other issues and problems Ms A has experienced with this car, I’m only looking at the issues with the A/C system, and these are serious enough on their own for me to uphold this complaint. The car supplied simply wasn’t of satisfactory quality.

This is because the CRA says that, where a fault is identified within the first six months, it’s assumed the fault was present when the car was supplied, unless the business, in this case SMFL, can show otherwise, and it hasn’t shown any evidence to support this position. And I’ve noted the very limited time that Ms A had the car before the issue with the A/C was reported, together with the fact that those initial repairs were undertaken on SMFL’s instructions and at no cost to her.

Because of this, Ms A was entitled to a repair or replacement under the CRA, and as I’ve already noted, repairs were undertaken.

However, where it seems to me that SMFL has misunderstood its obligations under the CRA is around the subject of repairs. It should note that the CRA only allows *one attempt* at fixing goods of unsatisfactory quality (not one attempt at *each* individual fault) before the consumer is entitled to other remedies – including rejection.

It follows, that as I am satisfied (after initial repairs completed under warranty) the car continued to suffer from further A/C faults, then it would likely be fair for Ms A to be able to reject it in accordance with her consumer rights as set out in the CRA. And the fact that Ms A has been able to drive the car for a considerable number of miles does not negate this fact; instead I’ll take her usage of the car into account when determining the compensation that SMFL needs to pay.

There also remains the issue of compensating Ms A for her additional expenses in having the diagnostics undertaken, and for the distress, worry, anxiety and inconvenience that she’s experienced.

Ms A has described in some detail the anxiety that she felt, and how the problems with the car impacted her work and her day-to-day life.

In conclusion, I’m satisfied that Ms A paid for a vehicle that wasn’t of satisfactory quality at the point of supply, and that she experienced a loss of enjoyment in terms of using it because of failed repairs.

Putting things right

I direct Specialist Motor Finance Limited to put things right by doing the following:

- ending the agreement with nothing further to pay;
- removing any adverse information from Ms A's credit file in relation to the agreement.
- collecting the car (if this has not been done already) at no further cost to Ms A;
- refunding Ms A the £15 plus VAT in respect of her costs incurred as a result of the inherent quality issues with the car;
- paying 8% simple yearly interest on all refunded amounts from the date of payment until the date of settlement;
- paying a further amount of £200 for the distress or inconvenience that's been caused due to the faulty goods;

*HM Revenue & Customs requires Specialist Motor Finance Limited to take off tax from this interest. Specialist Motor Finance Limited must give Ms A a certificate showing how much tax has been taken off if she asks for one.

My final decision

My final decision is that I uphold this complaint and require Specialist Motor Finance Limited to settle this complaint as I've directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms A to accept or reject my decision before 7 July 2025.

Andrew Macnamara
Ombudsman