

The complaint

Miss P complained about the quality of a car provided on finance by Startline Motor Finance Limited.

What happened

Startline supplied Miss P with a used car on a hire purchase agreement in March 2023. The cash price of the car was around £12,400 and it had covered around 70,000 miles since first registration in May 2016. The hire purchase agreement required payments of around £270 for 58 months followed by a final payment of around £280. Miss P paid a deposit of around £2,500.

Miss P said there were issues with the car from the start. She said it used excessive amounts of oil and was seen by the dealer who I'll call S in September 2023. She said they topped up the oil.

Miss P said that in February 2024 the car began juddering and a recovery agent said the ceramic on the spark plug was burnt out.

Miss P also said she was mis-sold the car, which was supposed to have a full service history. She wanted to reject the car and unwind the agreement.

Miss P contacted Startline in February 2024 who told her that she needed to provide an independent report. Miss P commissioned an independent report by an expert, but as the report didn't find in her favour; she didn't give it to Startline. Startline sent their final response which explained that as no evidence had been provided, it wouldn't offer further assistance. The report commissioned by Miss P stated that there was engine damage that was induced by the timing chain stretching as a result of age-related wear and tear. This resulted in distortion of one or more of the valves reducing engine compression. The report said that the car likely conformed to the contract at the point of supply, and the expert declined to change its opinion after reconsidering the evidence.

An investigator here considered the complaint. She said that there was evidence that a timing chain had been replaced in 2021 and that, coupled with the evidence of excessive oil consumption indicated that the current fault meant the car and its parts weren't sufficiently durable. She said that Miss P ought to be able to reject the car and the agreement should be unwound with no further liability.

Miss P broadly agreed with the investigator, but Startline disagreed. It said that that the expert had indicated there was no evidence to suggest the car was not sold in a satisfactory overall condition. It said that although the timing chain was replaced in 2021 there had been two MOTs and Miss P had driven over 10,000 miles which meant it was unlikely the fault was present or developing at the point of supply.

I issued a provisional decision which said:

I've read and considered the evidence submitted by both parties, but I'll focus my comments

on what I think is relevant. If I don't comment on a specific point, it isn't because I haven't considered it, but because I don't think I need to comment in order to reach what I think is the right outcome. This is not intended as a discourtesy but reflects the informal nature of this service in resolving disputes.

Firstly, I am very sorry to hear about the difficulties Miss P has described to this service. However, I think it is worth noting at this early stage that I am not intending to uphold her case.

The agreement in this case is a regulated consumer credit agreement. As such, this service is able to consider complaints relating to it. Startline is also the supplier of the goods under this type of agreement, and responsible for a complaint about their quality.

The Consumer Rights Act 2015 (CRA) is of particular relevance 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".

The CRA says the quality of goods are satisfactory if they meet the standard that a reasonable person would consider satisfactory taking into account any description of the goods, the price and all the other relevant circumstances. In a case involving a car, the other relevant circumstances might include things like the age and mileage at the time of supply 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.

Startline aren't required to supply a working car for the whole of the agreement. Unfortunately, due to the nature of mechanical engineering sometimes things go wrong that can't be anticipated, and it is the consumer's responsibility to pay for maintenance and repairs. But the goods do need to be of satisfactory quality at the point of supply.

What I have to bear in mind is that just because I've seen there were faults with the car, this doesn't necessarily mean the car wasn't of satisfactory quality when it was supplied to Miss P – which is what I need to decide. I'd need to see sufficient evidence the faults made the car of unsatisfactory quality when it was supplied to Miss P. The problem I have is that I've not seen enough evidence to determine that's the case. I take on board our investigator's opinion that parts of the car weren't sufficiently durable. But I've not seen any independent evidence that the current issues with the car were present or developing at the point of sale.

This was a used car and there is an expectation that there is likely to be some wear and tear on the components of a car with that age and mileage. The report states that there was engine damage induced by the timing chain stretching as a result of age-related wear and tear. The timing chain that was replaced in 2021 was a serviceable part and I'm not persuaded that its failure necessarily made the car not of satisfactory quality at the point of supply.

While the timing chain was replaced at around 55,000 miles in November 2021 the supplying dealer is not responsible for that repair. Our investigator has referred to the manufacturer maintenance schedule, but that would be more relevant to the lifespan of the part from new. The difficulty is that there are lots of moving parts in a car, the chain in and of itself might have been okay, but if there were other issues that could've impacted its durability.

I've thought about the conditions that might impact the lifespan of the chain. I can see that

the service history has been questioned by Miss P. I'll address whether the service history was misrepresented in more detail later, but for the moment I'll consider how the servicing can impact the lifespan of key parts of the car.

The manufacturer recommends the car should be serviced every year or every 12,000 miles whichever is sooner. The service history indicates that the car was first registered in 2016 but it didn't have its first service until more than three years later. The car is then serviced annually for the next three years until August 2020. The service record is stamped with a health check in October 2020 and then doesn't have another service until October 2021. The details of that service aren't completed in the record, so we have no way of knowing what was checked. However, the next service is carried out in early October 2021, followed by an MOT failure due to the engine management light (EML) being illuminated. The EML being on isn't a fault in itself. But it seems that the timing chain is then replaced in November 2021. The next reported service isn't carried out until just before the car was supplied to Miss P in March 2023. Given the servicing history here I find it hard to safely conclude that it is more likely than not that the timing chain failed prematurely which has then led to the catastrophic engine failure. Even if I accepted that the belt failed prematurely it could have been caused by something other than an inherent fault which made it not durable.

As this was a used car there is no requirement for there to be a perfect service history. And it seems likely that a lack of maintenance at various stages in the car's usage may have contributed to the wear and tear on the timing chain which led to the engine damage.

However, I don't think I can infer that the car wasn't sufficiently durable. Considering all the factors here, the age, price, mileage, service history I can't conclude it wasn't of satisfactory quality at the point of supply.

Considering the length of time the car had been with Miss P, and the requirements of the CRA I think Startline were fair to request more evidence. The report indicated that there was a fault with the car but was unable to determine the exact cause without further investigation. But most importantly the report set out that the car likely conformed to the contract at the point of supply. The expert also reconsidered matters later and reached the same conclusion, even going so far as to say there were no grounds to make a claim for lack of durability. The report was written by an independent expert with details of their credentials and a statement to the court. So, I find it persuasive. And based on the evidence before me I don't find I have grounds to say the car wasn't of satisfactory quality.

Negotiations

I think section 56 of the Consumer Credit Act 1974 is also relevant here. This provision has the effect of deeming the broker to be the agent of Startline in any antecedent negotiations. So Startline is responsible for the antecedent negotiations the supplying dealer carried out direct with Miss P.

Miss P said she was mis-sold the car, which was supposed to have a full service history. I can't see that Startline have specifically addressed this point in the final response although I can see it was something that Miss P raised. I asked Startline for its comments and it said that it had put these points to S during the investigation, but without evidence of what was discussed in pre-sale conversations it wasn't possible to investigate the allegations. It said it would have expected Miss P to raise those concerns earlier. S also said that it acquired the car from a private seller and wouldn't be aware of previous owners.

Miss P is essentially saying that important information was misrepresented. I have considered Miss P's testimony, which is valuable evidence as she was present at the sale. And, when considering misrepresentation, I'm looking at two things – whether there was a

false statement of fact and, if there was, whether the false statement of fact induced Miss P to enter into the agreement.

Miss P said that she was interested in getting a larger car and had this model of car in mind as friends had recommended to her. As well as needing a larger car she found she had a higher budget having recently changed jobs.

Miss P said she had been recommended this model by friends and family as they were good value for money and economical. She had found another car at a different branch of S, but the price was increased so she decided to keep looking. Miss P said she used S before and told them the model she was interested in. Miss P said S told her that the car only had one previous lady owner who lived locally which is why it had such low mileage. She said she was told that the previous owner had taken very good care of the car, and it had a full service history. There was no advert for the car as it had just arrived. Miss P said she was told it was likely that the car would sell quickly once it was advertised, and that S would provide a guarantee and a discount to the price which she said made her feel rushed.

Miss P said she later found out that the car had more than one owner and one of them was a leasing company.

Although Miss P's testimony is key to what happened, I don't have any testimony from S and there isn't an advert which clearly makes a false statement of fact. But even if I were persuaded there had been a false statement of fact, I'm not persuaded that a misrepresentation induced Miss P's decision to enter the agreement to acquire the car. I think there were other factors like the price and the size of the car that ultimately influenced her decision.

Miss P was presented with the service history but didn't raise any issues and ultimately decided to proceed with the agreement. Miss P has told us that she tried to call S about it, but unfortunately, she doesn't have any record of this. Startline only became aware after the significant mechanical issues that developed.

But I think the information about previous owners could be relevant and if key information about the history of the car wasn't disclosed that can be a misleading omission.

With that in mind, I've reviewed relevant guidance issued by the Chartered Trading Standards Institute (CTSI)¹. That information sets out to the motor trade steps to take in terms of compliance with relevant law², such as avoiding misleading actions or omissions, and poor or unfair business practices. The guidance says that making a misleading omission could be unfair. An example is given of "Failing to disclose that a vehicle for sale is an ex-business use vehicle that may have had multiple users - for example, a vehicle that has previously been used for rental, as a taxi or by a driving school; in such circumstances, it is not sufficient to only inform the consumer of the mileage and the number of previous owners."

I can see how the lack of disclosure of the previous owner and the fact it was a leasing company could be perceived as a misleading omission, particularly as this might now cast doubt on how the car was used, given the faults that are now present. But I've contacted the leasing company, and it told me that the car was contracted for one business user, and it didn't have multiple users. So, I don't think this was something that ought to have been

¹ Car traders and consumer law: Guidance for dealerships – can be found at <https://www.businesscompanion.info/focus/car-traders-and-consumer-law>

² Among other things, the Consumer Protection from Unfair Trading Regulations 2008, the Consumer Rights Act 2015, and the Consumer Contract Regulations 2013

disclosed before Miss P entered into the agreement.

Taking everything into account I'm not satisfied there was a misrepresentation or misleading omission, and this materially affected Miss P's decision making.

I fully appreciate that my decision will come as a disappointment to Miss P, and I'm sorry about that. But I don't yet find I have grounds to direct Startline to allow her to leave the agreement.

Miss P has told us she's been contacted about repossessing the car as it wasn't insured. I haven't dealt with that in my decision because it wasn't part of the original complaint. So, if Miss P is unhappy with how Startline dealt with that she can contact them again.

Miss P responded to my provisional decision expressing her disappointment. In summary she said:

- She had the car for less than a year and there were issues in a short period of time. She filled up the oil within a few weeks, and took it back to the dealer who only conducted visual checks and not a full investigation even though she was in a six-month warranty period, and they had the car for over a week.
- Miss P provided links to online articles about common problems with this model of car.
- Excessive oil consumption and two timing chains in less than 90,000 miles would suggest the car was not durable. The recovery agent said the fault could have been there the whole time she had the car. The EML may have been inoperative which is a common fault.
- Miss P said that the car was a necessity due to her rural location away from family and friends. The situation could have been avoided had the correct checks been done before sale, and later when the car was taken back to the dealer for investigations which were not completed correctly.
- Miss P said reviews of the independent expert voice concerns of their legitimacy, and she provided evidence that the timing chain had been replaced.
- Miss P said the whole of the sale was misleading as she was told it was one lady owner. Miss P said the service history was not provided until several months later. Miss P said she could provide copies of call logs to confirm she tried to follow this up.
- She said the car was not correctly serviced and the maintenance schedule wasn't stamped.
- Miss P had serious issues getting to and from work. She said she asked for a courtesy car as she had difficulties with public transport, and she didn't have support for her children. She says Startline refused and added unnecessary pressures on her regarding payments, even though she provided evidence of her health impacting her ability to pay.
- She described in detail how the situation has impacted every aspect of her life. She said it had affected her job, her children, her mental health and left her in a large amount of debt. All of that was due to the car not being of satisfactory quality from the first few weeks that she acquired it.

Startline didn't respond to my provisional decision. I'll now go on to make my 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.

I appreciate that Miss P is disappointed with my findings, and I have a lot of sympathy for the position she is in. She's passionately and articulately explained why she thinks the car wasn't of satisfactory quality and why the sale was misleading. She's also explained the impact this has had on every aspect of her life. I acknowledge this and I can't imagine how she must be feeling but thank her for bringing her complaint.

I've considered everything both parties have said again carefully, but where there isn't new material evidence I haven't gone into as much detail here. That isn't meant as a discourtesy but rather reflects our remit of being quick and informal.

Miss P has provided links to online articles about this model of car. But I'd need to see something specific to this car, rather than online articles about similar issues. I don't have sufficient evidence about what happened in those early weeks, like a job card showing what was found. Startline weren't aware of any issues in the early stages and if it had been it might have supported Miss P. The selling dealer weren't acting as Startline's agent for any issues after the agreement was entered into.

Given the mileage travelled before the car failed, if there was an ongoing problem with the oil levels, I would have liked to have seen more evidence of a problem at an early stage. The diagnostic in September 2023 doesn't indicate there is a fault. But it seems that she was able to travel over 10,000 miles before the car ultimately failed. It is possible that the fault was present or developing at the point of supply. But I don't find it most likely, and that's the standard that I need to reach to make a final decision.

It would be difficult to say that a car that had reached 90,000 miles wasn't sufficiently durable. I also underline the factors I have already pointed out when buying a second-hand car including the fact it had already travelled significant mileage at the point Miss P was supplied it and the higher risk of unexpected repairs. It's an inherent risk when buying a second hand car that parts may be more road-worn and require replacement sooner, and the servicing history over the lifetime of the car might be key. I discussed the inconsistent servicing history in the provisional decision.

Miss P has cast doubt on the legitimacy of the company who provided the expert report. Considering the circumstances here it was for Miss P to provide suitable evidence that the car wasn't of satisfactory quality. She was entitled to get evidence from any independent expert. I don't have any reason to doubt the credentials of the party that she commissioned to produce the report. I'm required to make a decision based on the evidence before me, and sometimes the issues aren't clear cut. But in this case the expert opinion isn't one that I can ignore.

Miss P said the car wasn't correctly serviced and the maintenance schedule wasn't stamped. I've explained in the provisional decision why a used car doesn't have to be fully serviced to make it of satisfactory quality. But I can see there is evidence that there was a pre-delivery inspection, and I don't have anything to indicate this wasn't done, or that it wasn't done with reasonable competence.

Miss P said that she wasn't supplied with a courtesy car despite informing Startline of the difficulties she was facing. I acknowledge how difficult this must have been, but Startline were only required to assist if the car wasn't of satisfactory quality.

I don't think getting copies of the call logs would change my opinion here, although it would indicate that Miss P followed things up with the dealer, which I don't dispute may have happened. But it wouldn't confirm what was discussed or agreed. In this case the most important information is about what happened *before* the agreement was entered into. Miss P has given her testimony about what she was told, but I don't have any testimony from the dealer, and there isn't an advert. Our service isn't able to compel witnesses, unlike a court, so I can't direct the dealer to do anything here.

As I said in the provisional decision, when considering misrepresentation, I'm looking at two things – whether there was a false statement of fact and, if there was, whether the false statement of fact induced Miss P to enter into the agreement.

I can't say there is a clear false statement of fact here. But even if I accept there was a misrepresentation, I'm not persuaded that induced Miss P into the agreement. I think there were other factors which ultimately caused her to select this car, such as the model and the price. Miss P has let us know that she didn't get the servicing history until some months later, despite trying to contact the dealer about this, unfortunately this in my mind confirms that it wasn't what induced her into the agreement. Miss P did have options available to her. She could have postponed the deal until an inspection could take place or the servicing history could be provided. I don't think it would have been unreasonable for Miss P to have done this, considering how important the servicing history seems to have been to her.

I'm sorry to disappoint Miss P but I don't find I have cause to direct Startline to do anything further to resolve this complaint.

Miss P may be able to present any new material evidence to Startline to consider afresh, but it won't affect the decision that I've reached here. As a reminder, Miss P doesn't need to accept my decision, she's free to pursue the matter by other means such as through the courts.

Miss P has also said that she wasn't given enough support regarding the financial difficulties this caused. She said Startline put unnecessary pressure on her to make payments even though she provided evidence of her health causing issues with her ability to repay. This didn't form part of the original complaint, so I haven't dealt with it in the decision. But if Miss P is unhappy with how she was treated regarding payment difficulties she can raise a new complaint with Startline about this.

My final decision is the same for the reasons set out in my provisional decision.

My final decision

My final decision is that I don't uphold this complaint.

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

Caroline Kirby
Ombudsman