

The complaint

Miss M complains that a car supplied to her under a hire purchase agreement with Specialist Motor Finance Limited is of unsatisfactory quality.

What happened

In September 2023 Miss M entered into a hire purchase agreement with Specialist Motor Finance Limited (SMF) to acquire a used car. The car was over eight years old, with a mileage of around 62,680. The cash price of the car was £7,199.00 with an advance payment of £1,691.19. The total amount payable on the agreement was £11,678.59, payable over 60 months. This was made up of 59 monthly repayments of £166.29, with a final repayment of £176.29 including an option to purchase fee.

Miss M explained that very soon after entering into the agreement, the car began to cut out when idle with the handbrake on, taking excessive time to turn over, it shuddered when driving and idle and the engine management light (EML) came on. Miss M reported the issues to the broker involved in setting up the finance agreement.

Following this, Miss M explained that around a week after the agreement started, the car was taken to a local repairer, where the fault code P0420 was identified. The dealership Miss M purchased the car from agreed for the repairer local to Miss M to carry out work to replace an oxygen sensor, believing this to be the issue.

Later, around November 2023, Miss M said the EML came back on, and the same fault code was being displayed as before.

At the start of December, Miss M was provided with a courtesy car, whilst hers was unavailable. Miss M states that around 19 December 2023 her car was returned to her, and the dealership told her it had replaced the catalytic converter and told her it had disconnected the automatic stop/start function as it couldn't understand why it was cutting out.

Later in January 2024, Miss M explained the EML came on again, and the same fault code as before was present. Miss M complained to her broker about the vehicle following this. The broker arranged for an independent inspection report to try to identify the issues, and to see if they were likely to have been present or developing at the point of sale, as if faults are present within the first six months of an agreement starting, there can be a greater onus on the supplier to prove whether the faults would have been there when the vehicle was supplied.

The report was carried out and is dated 11 March 2024. In the report, the engineer explained what they'd found, commented that they couldn't confirm if issues were present or developing at the point of sale, but that further investigation was necessary, and that this should be referred back to the selling dealer.

Miss M then explained the EML issue that had been intermittent at first, had changed to the EML being on constantly.

Miss M later complained to SMF about the issues as nothing further was happening. SMF issued its final response to the complaint, in which it said there was no evidence of faults present at the point of sale and as such the complaint was not upheld.

Miss M was unhappy with this and so brought her complaint to this service where it was passed to one of our investigators. The investigator upheld the complaint. It was their opinion that an opportunity to repair a fault had been given, and this repair had failed. The fault was intermittent but was present and was present or developing at the point of sale, making the vehicle of unsatisfactory quality when it was supplied.

The investigator explained a rejection of the vehicle is fair at this point along with refunding 10% of the monthly payments Miss M had made to the agreement due to impaired usage of the vehicle. Miss M agreed with the outcome.

SMF didn't agree and supplied some further information, but this didn't change the investigator's outcome. So, I've been asked to review the complaint and 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.

Miss M acquired a car under a hire purchase agreement. Entering into consumer credit contracts like this is a regulated activity, so I'm satisfied we can consider Miss M's complaint about SMF. SMF is also the supplier of the goods under this type of agreement meaning they are responsible for a complaint about the supply of the car and its quality.

The Consumer Rights Act 2015 (CRA) is relevant in this case. It says that under a contract to supply goods, there is an implied term that "the quality of the goods is satisfactory, fit for purpose and as described". To be considered as satisfactory, the CRA says the goods need to meet the standard that a reasonable person would consider satisfactory, considering any description of the goods, the price and all the other relevant circumstances.

So, it seems likely that in a case involving a car, the other relevant circumstances a court would consider might include things like the age and mileage at the time of sale and the vehicle's history.

In this case, Miss M acquired a car that was over eight years old and had travelled around 62,680 miles. As this was a used car with this mileage and age, it's reasonable to expect parts may already have suffered more wear and tear when compared to a brand-new car or one that is less travelled. There's a greater risk this car might need repair and/or maintenance sooner than a car which wasn't as road-worn.

I've reviewed the available evidence about the issues Miss M experienced with the car. Based on what I've seen, I'm satisfied that there was a fault with the car. I say this because neither SMF nor Miss M dispute the vehicle had faults with a sensor being replaced and I've seen an independent report explaining the vehicle does take longer to crank than a similar vehicle. Having considered the car had a fault, I've considered whether it was of satisfactory quality at the time of supply.

I can see Miss M reported issues with the vehicle almost as soon as entering into the agreement. It was reported the fault code P0420 was present and identified. Miss M, the

repairer she'd taken the car to, and the dealership appear to have liaised on the fault, with the selling dealership authorising the repairs they thought necessary to fix the problem – the replacement of an oxygen sensor.

This fix doesn't appear to have resolved the issue, as Miss M has explained it returned, and I can see from correspondence that the vehicle was taken in, she was provided with a courtesy car, and Miss M explains that the car was then returned to her around 18 days later. Miss M has stated she was told the catalytic converter was replaced during this time. I have no information that shows this happened, however the fault code that was persisting may well have related to the catalytic converter, and in the independent inspection report, the engineer said they couldn't confirm if the catalytic converter is new due to the heat shields in the way, but that it does look non-standard to what they could see. This doesn't necessarily mean the catalytic converter was definitely replaced by the dealership as this could've been done at any point in the vehicle's lifespan if it had been done but is useful context.

Whatever fix was applied during that time, the EML came on again in January 2024. This is when Miss M made her complaint to the broker, and in its final response to her complaint, I can see the broker have acknowledged she'd asked to reject the vehicle. By the time the vehicle was inspected in March 2024, the EML was no longer illuminated. This is consistent with the fault being intermittent.

The inspection report did find a fault with the extended cranking time of the vehicle, and agreed that the vehicle was erratic when idle after starting, the engineer also mentioned this would go on settle down when warm. The engineer also said they cannot confirm if the fault was present or developing at the point of sale, and further investigation would be required, and they also answered yes to the question do you feel that the matter should be referred back to the selling dealer.

The report is important for two reasons, it confirms what Miss M has said about the erratic idle and car having issues when turning over, and the engineer confirms the selling dealer should have carried out further investigations.

Due to the report not making a definitive finding on if faults were present or developing at the point of sale, it appears the broker decided to reject Miss M's complaint.

Miss M was able to carry on using the vehicle during her complaints made to the broker and SMF. I do think it's reasonable she did this, as she needed to use it to stay mobile. From the point of sale to the inspection report, Miss M was able to achieve around 4,627 miles in around five and a half months. However, the faults weren't stopping Miss M from driving the vehicle.

Miss M provided an image of the dashboard of a car, showing 68,225 miles, with the EML illuminated whilst the vehicle was travelling. I've been given no reason to doubt that this relates to Miss M's vehicle. This showed that the EML came back on after the inspection report had taken place, showing the intermittent nature of the fault. The corresponding fault code is provided to the broker.

Later in September 2024, the vehicle had an MOT where the mileage was recorded as 72,433. This means Miss M had now been able to travel around 9,753 miles in around one year of driving the vehicle. The MOT also makes no reference to an EML illuminated. However, the fault is intermittent as shown by not always being present, and then coming back on requiring attention, not being present during the independent inspection, but then reappearing around a month later. So, as the fault and EML appears intermittent, it follows

that the EML likely wasn't illuminated during the MOT, but this doesn't mean the vehicle didn't have a fault.

Having considered all the information I have available to me, I'm persuaded the vehicle was not of satisfactory quality when it was supplied. I say this because Miss M reported an issue within a day of collecting the vehicle, with the symptoms reported following the vehicle throughout, some of which were present during the inspection report. The dealership took liability for repairs within the first month, authorising the work to repair the fault by the repairer local to Miss M. SMF have explained that sensors can fail, but this doesn't mean the vehicle was of unsatisfactory quality. I agree with this, as sensors can need replacing through routine maintenance and ownership of a vehicle, but this repair was designed to fix the issues Miss M reported around one day into driving it. This repair did not fix the issues, as the EML came back on, requiring the vehicle to be taken to the dealership, and this was significant enough to need to provide a courtesy car to Miss M.

We have no job cards or invoices on the work carried out here. We do know what Miss M told us she was told, and this could line up with the fault codes provided, alongside the potential non-standard catalytic converter mentioned in the inspection report. However, whatever actually happened at this visit, this also did not repair the issues with the vehicle, as some of the same issues that Miss M was reporting were found by the engineer inspecting the vehicle in March 2024, in relation to the vehicle taking much longer to start than expected, and an erratic idle. A reasonable person purchasing a car in similar circumstances to this one, might expect to not encounter trouble starting the car so early on in their ownership. A reasonable person could also expect the vehicle not to idle erratically so early on. Miss M also encountered the EML illuminating intermittently. I acknowledge the age of the car and the mileage travelled already, however, a reasonable person could still expect to have used the car for longer than Miss M did without running into the issues she did when she did.

It's likely there were two chances to repair the vehicle, with a potential third opportunity following the inspection report. This was still within the first six months of the agreement, and the engineer explained further investigation would be required to determine if issues were present or developing at the point of sale and considered this should be referred back to the selling dealer. Had this been followed, the dealership would've had another opportunity to inspect the vehicle and carry out any repairs that may have been necessary.

Having explained this, it follows I'm persuaded the vehicle was not of satisfactory quality when it was supplied. I acknowledge SMF's position around the mileage travelled and the MOT not highlighting the EML. The car was not rendered undriveable by the faults, however it doesn't have to be undriveable to be of unsatisfactory quality. Miss M needed to use the car to stay mobile and hadn't been told not to drive it. I've also explained why I'm satisfied the EML didn't appear on the MOT.

Putting things right

As I've concluded that the car was not of satisfactory quality when it was supplied, I think it's reasonable SMF should put things right.

In this case, I do think Miss M should be allowed to reject the vehicle as laid out by the CRA. I say this because there have been several chances to repair the vehicle, however these have either failed, or not been investigated and carried out if necessary. A significant amount of time has also now passed in which to have carried out the repairs meaning these have not been carried out in reasonable time.

As such, SMF will need to cancel the agreement with nothing further to pay in relation to the monthly payments, arrange to collect the vehicle at no cost to Miss M if this has not been done already and refund the advance payment paid, in this case it appears the advance payment on the agreement may have been made by way of part exchange. SMF is entitled to retain any part of the deposit made up of dealer contributions. Any portion of the part-exchange value that went towards settling existing finance is not due to be repaid to Miss M.

Miss M has been able to continue using the vehicle, and I think it's fair she pays for that usage, so, SMF is entitled to retain a monthly payment for each month Miss M had the vehicle from the start of the agreement to the date of settlement. However, I agree with the investigator that SMF should refund 10% of each monthly payment Miss M made. This is because the car will not have been performing correctly, almost from the start of the agreement. I've explained why I'm persuaded it's not reasonable for Miss M to have encountered the cranking and idle issues as confirmed by the independent inspector. This will have caused loss of enjoyment and concern during Miss M's use of the vehicle and does fairly reflect the impaired usage Miss M encountered.

It is also fair for SMF to pay Miss M £250 for distress and inconvenience. I say this because Miss M has been trying to have the issues with her vehicle resolved for a significant period of time, and almost from the start of her agreement. This will have taken time, effort and caused some inconvenience over an extended period of time.

My final decision

For the reasons explained, I uphold Miss M's complaint and instruct Specialist Motor Finance Limited to do the following:

- End the agreement with nothing further to pay in as outlined above.
- Collect the vehicle as outlined above.
- Refund the advance payment as outlined above. Specialist Motor Finance Limited is entitled to retain any part of the deposit made up of dealer contributions. Any portion of the part-exchange value that went towards settling existing finance is not due to be repaid to Miss M.
- Ensure Miss M has only paid one monthly payment for each month of owning the vehicle from the start of the agreement to the date of settlement and reimburse 10% of each monthly payment as outlined above.
- Pay 8% simple yearly interest* on the above, to be calculated from when Miss M made the payments to the date of the refund.
- Pay £250 for distress and inconvenience caused.
- Remove any adverse information about the agreement from Miss M's credit file if applicable.

*HM Revenue & Customs requires Specialist Motor Finance Limited to deduct tax from the interest amount. Specialist Motor Finance Limited should give Miss M a certificate showing how much tax it has deducted if she asks for one. Miss M can reclaim the tax from HM Revenue & customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 11 July 2025.

Jack Evans
Ombudsman