

The complaint

Mr H complains about the quality of the car he was supplied under a hire purchase agreement with Specialist Motor Finance Limited ("SMFL")

What happened

Mr H has been represented when bringing his case to our service by his wife, but for simplicity, I will always refer to comments or evidence provided by Mr H.

Mr H entered into a hire purchase agreement with SMFL in February 2024 to acquire a used car. The car was approaching ten years old and noted as having covered around 33,000 miles.

Within the first couple of weeks, Mr H noticed the car seemed to be using a lot of oil, but there was no obvious leak. A mechanic looked at it and replaced a cover on the gasket and the spark plugs.

Then in October 2024, Mr H noticed a noise from the engine and the exhaust pipe seemed to be blowing excessively. A garage looked at it and replaced the coil pack and spark plugs, but this didn't seem to fix things. The garage said the car would need a compression test, but they didn't have the equipment to do this, so the car was taken to another local garage who could do this.

The test showed that one cylinder had no compression, and another had low compression. The garage said that the car would need a new engine. Mr H went ahead and researched how he could do this cost effectively, found a company who would replace the engine for him, and found a suitable replacement engine online from a different company.

The work was carried out in October/November 2024, and when taking the old engine out, the company provided some photos showing it had salvage markers on it, confirming that it was in fact a replacement engine already, and not the original engine for the car.

Mr H raised a complaint with SMFL in early November 2024 and received a final response letter (FRL) in mid-November 2024 not upholding the complaint. The letter said there was no evidence of a fault being present or developing when the car was supplied to Mr H.

Mr H brought the complaint to our service shortly afterwards, and an investigator here investigated it and upheld in Mr H's favour. They said that they were persuaded that the car hadn't been durable, so whilst they accepted there was no specific evidence of the fault with the engine being present or developing at the point of sale, they felt that a reasonable person wouldn't think the car was durable when it needed a new engine after eight months and having only covered 8,000 miles since supply. They said SMFL should refund Mr H for the costs of replacing the engine and other associated costs.

Mr H accepted that view, but SMFL didn't and asked for an Ombudsman to make a final decision. They said that there was no evidence that the fault was present or developing at the point of supply.

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've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome. Where evidence has been incomplete or contradictory, I've reached my view on the balance of probabilities – what I think is most likely to have happened given the available evidence and wider circumstances.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Mr H was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we're able to investigate complaints about it.

The Consumer Rights Act 2015 ('CRA') says, amongst other things, that the car should've been of a satisfactory quality when supplied. And if it wasn't, as the supplier of goods, SMFL are responsible. What's satisfactory is determined by things such as what a reasonable person would consider satisfactory given the price, description, and other relevant circumstances. In a case like this, this would include things like the age and mileage at the time of sale, and the vehicle's history and its durability. Durability means that the components of the car must last a reasonable amount of time.

The CRA also implies that goods must conform to contract within the first six months. So, where a fault is identified within the first six months, it's assumed the fault was present when the car was supplied, unless SMFL can show otherwise. But where a fault is identified after the first six months, the CRA implies that it's for Mr H to show it was present when the car was supplied.

So, if I thought the car was faulty when Mr H took possession of it, or that the car wasn't sufficiently durable, and this made the car not of a satisfactory quality, it'd be fair and reasonable to ask SMFL to put this right.

This is not an ideal situation, as nothing has quite happened as any party would like here. Mr H has told us that he phoned SMFL in early October 2024 to discuss things, because the garage who had carried out the compression test for him had quoted him £5,000 to replace the engine, which was likely more than the car was worth, so they had suggested he speak to the finance company. I don't think he knew why he needed to speak to the finance company, or what his consumer rights were at this point.

Mr H has said that when he spoke to someone at SMFL, they said there was nothing they could do. Similarly, the FRL says that the invoices for the work carried out didn't describe or prove the fault was present or developing at the point of sale, so there was nothing they could do.

Neither of these interactions explained Mr H's consumer rights or dealt with the issue of durability. On this basis, I think it's not surprising that at this point, Mr H felt he was on his own, and he had to sort things out himself, because SMFL weren't going to help.

I've thought about the durability argument made by the Investigator, and I agree with it. Eight months after the car was supplied, I don't think a reasonable person would expect the car to need a new engine. The car had still at that point only covered around 41,000 miles, so I think this is premature for this level of issue. It was also sold with a full-service history, so I

think a reasonable person would expect it to last much longer than this before needing major repairs.

As described above, under the CRA, whether a fault is present or developing at point of sale is one of the key factors to a complaint about the quality of the car. SMFL have focused on the fact that there is no evidence to say the fault was present at the point of sale or developing. However, a fault can be developing without it exhibiting symptoms or proof, and to need a new engine within the first year suggests that the fault had been developing for a considerable time.

Alongside this, even if it hadn't been developing, I don't think the car has proven sufficiently durable if the engine needs replacing well inside the first year. The car was sold with low mileage and a full-service history, and a reasonable person would not expect it to need this significant a repair after such a short period of time.

As SMFL haven't really engaged about the faults, I think it was reasonable for Mr H to decide he needed to try to resolve things himself. Repair would be a suitable remedy under the CRA, and Mr H has described the level of research he's done to find a garage that can replace the engine cost effectively, and also at the same time to source an engine from elsewhere cost effectively. This can be shown by the fact that the garage who identified the problems quoted him £5,000 to replace the engine, and he's managed to do it for considerably less than £2,000.

I'm satisfied that SMFL should refund these repair charges to him, as the car they supplied wasn't of satisfactory quality, as it wasn't durable. If the case had come to me before Mr H had arranged and paid for the repairs, I might have felt that rejecting the car was the better resolution, particularly considering that it appears that the engine the car was sold to him with was not the one which had covered 31,000 miles from new.

There is an argument that the car was misrepresented to Mr H as the engine supplied was not the one which had covered 31,000 miles from new and had been replaced at some point. The salvage markers on the engine suggest it was likely far higher mileage.

However, as Mr H has gone ahead and arranged repairs now, I think that's also a fair resolution, and SMFL should pay for these repairs. I don't think the charges are excessive for the work that has been done, and I think Mr H has been diligent in finding the most cost-effective way to replace the engine.

I do feel however that the fact Mr H has proactively done this without agreement from SMFL does impact on his rights going forward with regards to SMFL. As he has replaced the engine without their involvement, I'm not sure that any further engine problems could fairly be linked back to the quality of the car when it was supplied. However, that hopefully won't be an issue, and looking at the complaint here, I do think the car wasn't durable, the repairs carried out were done fairly and cost effectively, and it would be fair for SMFL to cover the costs for them.

Having looked at the redress proposed by the Investigator, I think this is fair and don't propose anything different is needed.

Putting things right

I instruct Specialist Motor Finance Limited to carry out the following to put things right:

- Refund Mr H the £837.42 cost to install the replacement engine he paid on 6 November 2024.

- Refund Mr H £850 for the replacement engine paid on 4 October 2024.
- Refund Mr H pro rata for his monthly payments for the period 3 October 2024 to 6 November 2024 inclusive when the car was off the road due to the faults.
- Refund Mr H £90 for the diagnostic report he paid for on 3 October 2024.
- Add 8% simple yearly interest to the above refunds from the date of payment to the date of settlement.
- Pay Mr H a further amount of £200 for the distress and inconvenience caused from the supply of a car of unsatisfactory quality.

My final decision

I am upholding this complaint and instruct Specialist Motor Finance Limited to carry out the above to put things right.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 16 July 2025.

Paul Cronin
Ombudsman