DRN-5861479

The complaint

Miss G is unhappy that a car supplied to her under a hire purchase agreement with Startline Motor Finance Limited ('SMF') was misrepresented at the point of supply.

What happened

SMF. She paid an advance payment of £3,000 and the agreement was for £12,464 over 60 months; with 59 monthly payments of £358.33 and a final payment of £368.33. At the time of supply, the car had done 68,365 miles (according to the advert).

In February 2025, Miss G attempted to sell the car to an online motor trader. However, the trader advised her the car had been an insurance write-off in 2019, and the sale fell through. The car had been categorised as Category N – it had sustained non-structural damage so could be repaired and put back on the road, however the insurance company had deemed the car to be uneconomical for repair and had instead sold it through a salvage auction.

The car's MOT record shows that the car had been repaired, put back on the road, and had successfully passed an MOT test in May 2020, April 2021, February 2022, and January 2023. After the car was supplied to Miss G it also successfully passed an MOT test in February 2024 and February 2025. As such, there is no indication that the car wasn't safe to drive when it was supplied to Miss G, and all repairs had been successfully completed.

Miss G wasn't happy that the car's history hadn't been declared to her before the car was supplied, and she said she wouldn't have taken the car had she known it had previously been written off by an insurance company. She complained to SMF who said the supplying dealership had checked the car before it was supplied, and an HPI check had come back clear. So, the car was suitable to be financed. They also said that the Category N marker hadn't been added until 13 February 2025, 20-months after the car was supplied to Miss G. So, they didn't uphold her complaint.

Miss G wasn't happy with this response, and she brought her complaint to the Financial Ombudsman Service for investigation.

Our investigator said that the mileage on the car when it had been written-off by the insurance company was 50,478 miles – so this write-off happened before the car was supplied to Miss G. The investigator thought that the car's history should've been declared to Miss G and, as it wasn't, the sale had been misrepresented.

As a result of this, the investigator said that Miss G should be allowed to reject the car, receive a refund of the deposit she paid, and that SMF should pay her an additional £200 compensation for the distress and inconvenience she'd suffered.

Miss G accepted the investigator's opinion, but she also thought she should be refunded the payments she'd made after advising SMF about the misrepresentation. This is because she hadn't used the car as she no longer felt comfortable driving it.

SMF didn't agree with the investigator's opinion. They said that the car was roadworthy and fit for purpose when it was supplied to Miss G. They also didn't agree there had been a misrepresentation as there was nothing to show the car had previously been involved in an accident at the point of supply, particularly as the Category N marker wasn't registered until after the car was supplied.

Because SMF didn't agree, this matter has been passed to me to decide.

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. Miss G 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.

When considering this matter, I've also taken into consideration section 56 of the Consumer Credit Act 1974. This states that any negotiations conducted by the credit broker or supplier of goods are deemed to be conducted in the capacity of an agent of the creditor, and that this includes all communications (including the advert) and representations made. This means that, in this case, any discussions, communication, or representations made by the dealership in respect of the history of the car were done so as an agent of SMF, for which SMF remain liable.

This is also a complaint about misrepresentation. For misrepresentation to be present there must (a) have been a false statement of fact (either directly or by omission), and (b) that false statement of fact must have induced, in this instance, Miss G to have financed this particular car with SMF. Misrepresentations can be fraudulent (where a false statement of fact is made by someone knowing it's untrue), negligent (where a false statement of fact is carelessly made without reasonable grounds for believing it to be true), or innocent (where the false statement of fact is neither negligent nor fraudulent).

The basic facts of this case aren't disputed. The car supplied to Miss G had previously been involved in an accident that resulted in it being a Category N write-off. The car was successfully repaired and has passed multiple MOT tests after the accident date, both before and after it was supplied to Miss G. This meant the car was of a satisfactory quality and fit for purpose when it was supplied to Miss G. However, the Category N marker wasn't registered until some months after the car was supplied to Miss G. As such, I'm satisfied that I don't need to consider the merits of this issue within my decision. Instead, I'll focus on whether the dealership misrepresented the car.

I've seen copies of the dealership's adverts for the car, both on their social media and through a national car selling company. Neither advert states the car had previously been involved in an accident, nor does it say it hadn't been.

Where a car has previously been involved in an accident, a dealership only has three potential ways of finding this out – the HPI check, a declaration from the seller, or obvious repairs when the car was checked before sale. As stated above, the company who provided the HPI check have confirmed that the salvage auction company didn't register the Category N marker until February 2025. I consider it highly unlikely that a seller would declare a previous accident, especially when the car has been repaired and is now roadworthy, and I haven't seen anything to show me that the dealership was told of the previous accident.

Finally, the insurance company report (which hadn't been supplied to the dealership before the car was supplied) shows there was some front-end damage that would require the replacement of the bumper and possibly some other body panels, with the potential for a partial respray. Once repaired to a satisfactory standard (which the MOT record shows it was) the accident damage is highly unlikely to have been identifiable from any pre-sale checks the dealership undertook.

Given the above, I'm satisfied that there was no fraudulent or negligent misrepresentation of the car by the dealership. However, as the car had been previously written off as a Category N, and Mis G is having difficulty selling it as a result, I'm satisfied there has been an innocent false statement of fact by omission.

Since becoming aware of the car's history, Miss G has stopped using it, and she's provided evidence that she's purchased and insured a different car as alternative transport, even though she continues to pay SMF for the car they supplied her with. This satisfies me that, had she been aware of the car's history in 2023, Miss G wouldn't have financed it.

As such, the threshold for misrepresentation has been met, and SMF need to do something to put things right.

Putting things right

As Miss G wouldn't have financed the car had she known its history, I think it's only fair that she should now be allowed to reject the car, putting her in the position she would've been in in 2023 had she been in full possession of the facts.

However, during the time the car has been in her possession, Miss G has travelled over 22,000 miles. And while she's chosen not to drive the car, the car is in a roadworthy condition and can legally be driven. So, the car has been available for Miss G to use.

In these circumstances, the Consumer Rights Act 2015 allows for SMF to charge Miss G for fair usage. I think that SMF keeping the monthly payments Miss G has paid fairly accounts for the fair usage, so I won't be asking them to refund any of these. However, I will be asking them to refund the deposit.

Finally, I think Miss G should be compensated for the distress and inconvenience she's been caused. But crucially, this compensation must be fair and reasonable to both parties, falling in line with our service's approach to awards of this nature, which is set out clearly on our website and so, is publicly available.

I note our investigator also recommended SMF pay Miss G an additional £200 to recognise the distress and inconvenience caused. And having considered this recommendation, I think it's a fair one that falls in line with our service's approach and what I would've directed, had it not already been put forward. So, this is a payment I'm directing SMF to make

Therefore, SMF should:

- end the agreement, ensuring Miss G is not liable for any monthly payments after the point of collection (if any payments are made, these should be refunded);
- collect the car at no collection cost to Miss G;
- remove any adverse entries relating to this agreement from Miss G's credit file;
- refund the deposit Miss G paid (if any part of this deposit is made up of funds paid through a dealer contribution, SMF is entitled to retain that proportion of the deposit);
- apply 8% simple yearly interest on the refund, calculated from the date Miss G made the payment to the date of the refund†; and
- pay Miss G an additional £200 to compensate her for the trouble and inconvenience caused by being supplied with a car that was misrepresented (SMF must pay this compensation within 28 days of the date on which we tell them Miss G accepts my final decision. If they pay later than this date, SMF must also pay 8% simple yearly interest on the compensation from the deadline date for settlement to the date of payment†).

†If HM Revenue & Customs requires SMF to take off tax from this interest, SMF must give Miss G a certificate showing how much tax they've taken off if she asks for one.

My final decision

For the reasons explained, I uphold Miss G's complaint about Startline Motor Finance Limited. And they are to follow my directions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss G to accept or reject my decision before 24 November 2025.

Andrew Burford
Ombudsman