

The complaint

Mr B complains that a car acquired with finance from Shogun Finance Limited ("SFL") wasn't of satisfactory quality.

What happened

In September 2019 Mr B was supplied with a car and entered into a hire purchase agreement with SFL. At the point of supply the car was brand new. The purchase price of the car was £32,499. Mr B paid a deposit of £4,092. The balance was repayable by 60 payments of £573.10.

In September 2022 the car went for a service and MOT. The car passed the MOT with an advisory that the front shock absorbers had a light misting of oil. At the time of the MOT the odometer reading was 26,247 miles.

The garage who carried out the service contacted the manufacturer and asked them to repair the shock absorber under warranty. On 1 November 2022 the warranty repair was authorised.

Mr B has told this service that the manufacturer is no longer trading in the UK and that there are only a few dealerships authorised to carry out warranty work. Mr B has experienced delays in getting the work carried out.

In April 2023 Mr B raised a complaint with SFL. He said the fault with the shock absorber meant that the car wasn't of satisfactory quality and asked SFL to arrange for repairs to be completed.

SFL issued a final response in May 2023. It said it wasn't upholding Mr B's complaint because there was no evidence that the fault with the shock absorber was present or developing at the point of supply.

Mr B remained unhappy and brought his complaint to this service.

Our investigator didn't uphold the complaint. He said he hadn't seen any evidence which stated that the fault was likely to be present or developing at the point of supply and that the fault was likely due to wear and tear.

Mr B didn't agree. He said the fault with the shock absorber was a manufacturing defect, because it shouldn't've failed after only 26,000 miles. He said that the manufacturer had agreed to repair the fault under warranty but there were no dealerships which could carry out the work.

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.

The Consumer Rights Act 2015 is relevant to this complaint. This says that goods must be of

satisfactory quality when supplied. Cars are of satisfactory quality if they are of a standard that a reasonable person would regard as acceptable, taking into account factors such as the age and mileage of the car and the price paid. The legislation says that the quality of the goods includes their general state and condition, as well as things like fitness for purpose, appearance and finish, freedom from minor defects, safety and durability.

The car supplied to Mr B was brand new. So I'd expect it to be of a very high quality and to remain fault free for as reasonable period of time.

Under the Consumer Rights Act 2015, where a fault occurs within the first 6 months of the point of supply, it's assumed that the fault was present or developing at the point of supply and it's generally up to the business to put things right.

Where a fault occurs outside of the first 6 months, the burden of proof is reversed and it's up to the consumer to show that the fault was present or developing at the point of supply.

I've reviewed the available evidence about the issues which Mr B experienced with the car. Based on what I've seen, I'm satisfied that the car had a fault. I say this because I've seen correspondence from the manufacturer which confirms that the offside front shock absorber is leaking and requires replacement.

I've gone on to consider whether the car was of satisfactory quality when it was supplied.

Mr B discovered the issue with the shock absorber in September 2022. He'd been driving the car for around 3 years and had covered around 26,000 miles. There's no information to suggest that there was an issue with the shock absorber prior to September 2022. The garage who serviced the car who identified the issue haven't said that the issue is something which was likely to have been present or developing at the point of supply. Based on the information I've seen, there isn't enough evidence to persuade me that the fault was likely to have been present or developing at the point of supply.

Mr B has said that a shock absorber shouldn't fail at 26,000 miles. I've thought about this, because if the shock absorber failed prematurely, there may be grounds for saying that the car wasn't sufficiently durable, and therefore wasn't of satisfactory quality. I've undertaken some research into the life expectancy of a shock absorber. Generally, a shock absorber can be expected to last 4 or 5 years. However, there are several factors which can affect this, such as road conditions, because impact to shock absorbers due to road conditions means that they can become misplaced, causing them to leak.

Although I appreciate that Mr B is frustrated at having to replace the shock absorber after 3 years, I'm not persuaded that the shock absorber has failed prematurely or that the car wasn't sufficiently durable. It seems more likely that the issue is due to general wear and tear.

For these reasons, I'm unable to say that the car wasn't of satisfactory quality when it was supplied. I won't be asking SFL to do anything further.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 22 December 2023.

Emma Davy
Ombudsman