

The complaint

Mr W complains about the quality of a used car that was supplied through a hire purchase agreement with Specialist Motor Finance Limited (SMF).

Mr W has been represented on this complaint. But to keep things simple I'll only refer to Mr W in my decision

What happened

In June 2022, Mr W acquired a used car through a hire purchase agreement with SMF. The car was about three years old and had travelled around 112,800 miles when it was supplied to Mr W. The cash price of the car was £11,999. Mr W paid a deposit of £1000, so the total amount financed on this agreement was £10,999 payable over 60 months.

Mr W said that within six months of acquiring the car he experienced a number of issues related to the AdBlue system which resulted in the breakdown of the car on more than one occasion. Mr W said that he first reported the issue to the dealership in October 2022 after he'd driven about 6,000 miles. However, he said that in January 2023 the car failed and was recovered to a manufacturer dealer, who advised a specialist was required to resolve the problem with the AdBlue.

Mr W said he reported the issues to SMF. An independent inspection of the car was arranged by the broker, and was carried out on the 14 February 2023. At the point of inspection Mr W had driven the car about 8,800 miles. The inspection report concluded that whilst there were issues identified, due to the mileage covered, it wasn't considered that the issue would have been developing or present at the point of supply.

Mr W disagreed with the conclusions of the inspection report and felt the inspectors weren't given the full facts before arriving at their outcome.

In February 2023 Mr W brought his complaint to our service for investigation. In March 2023 our service raised a complaint with SMF on Mr W's behalf. Mr W also arranged for the manufacturer garage to carry out a diagnostic and quotation for repair. The diagnostic commentary advised the injectors were over-fuelling and had contaminated the DPF and AdBlue system. The invoice dated 3 March 2023 quoted £4,116 for a repair.

In May 2023 Mr W told our investigator that the car broke down again, and that he'd spent around £2,570 on reports and repairs. Mr W said he just wanted all his money back. Mr W also confirmed that he'd SORN the car and cancelled the insurance on it, as it'd become unusable. He told us he wasn't making any further payments towards the agreement.

In July 2023 SMF issued their final response. They didn't uphold the complaint as they concluded there was no evidence to say the faults were present or developing at the point of supply.

Having reviewed all the information on file, one of our investigators recommended that Mr W's complaint should not be upheld. The investigator concluded that they weren't persuaded the problem with the AdBlue was present at the point of supply.

Mr W didn't accept the investigator's view. He believed the independent inspection report was flawed because it didn't consider the faults with the AdBlue occurred within the first six months of supply, and that the dealership made an attempt to fix the issue in December 2022. However, as the investigator's view remained unchanged, Mr W asked that his complaint be referred to an ombudsman for 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.

In considering what is fair and reasonable, I've thought about all the evidence and information provided afresh and the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and (where appropriate) what I consider to have been good industry practice at the relevant time.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

Mr W complains about a hire purchase agreement. Entering into consumer credit contracts like this is a regulated activity, so I'm satisfied we can consider Mr W's complaint about SMF. SMF is also the supplier of the goods under this agreement, and is responsible for a complaint about their 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. The CRA also explains the durability of goods is part of satisfactory quality.

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.

My starting point is that SMF supplied Mr W with a used vehicle that had travelled about 112,800 miles. With this in mind, I think it's fair to say that a reasonable person would expect the level of quality to be less than that of a brand-new car with lower mileage; and that there may be signs of wear and tear due to its usage which may impact its overall quality and reliability; so, there'd be an increased likelihood of unforeseen problems surfacing sooner than in a new vehicle.

Having said that, the car was priced at around £12,000 which isn't insignificant. It also wasn't a particularly old vehicle. So, I think it's fair to say that a reasonable person would expect it could offer a reasonable duration without any major issues, for example, especially if it has been well maintained and serviced.

From the information provided I'm satisfied there was a fault with the car's AdBlue system. This is apparent from the diagnostic invoice from the manufacture garage which confirmed the AdBlue system was contaminated. The independent inspection report, arranged by the broker, also confirmed the AdBlue warning light was illuminated during their inspection. So,

having considered the AdBlue system was faulty, I've considered whether it was of satisfactory quality at the time of supply.

satisfactory quality

Mr W told us that after collecting the car he had to contact the dealership around three times to enquire about the AdBlue system, he also says it was returned to them in December 2022 for them to fix the fault.

Mr W provided us with emails that he sent to the dealership in December 2022 where he confirmed his car had been dropped off for repairs to the AdBlue system and turbo.

In a further email from Mr W in December 2022, he said that the dealership told him no leak could be found in the AdBlue system, but a new turbo was on order.

Mr W provided our investigator with correspondence from the broker and dealership from December 2022, however, neither confirmed what the fault was, or that there was an inherent problem with the AdBlue system.

The diagnostic invoice advised that the car wouldn't start due to an AdBlue fault. It also said that the AdBlue system has been contaminated through the injector over fuelling. So, although I'm persuaded the AdBlue system was being impacted at that point, and how, the invoice doesn't give the root cause of the problem or when it was likely to have developed. It also doesn't appear to link the issue at that point to any of the problems that Mr W reported to the dealership in December 2022.

Overall, I have evidence showing that Mr W reported issues with the car within the first six months of supply and that he wanted to return it, but I haven't seen any expert evidence confirming what the fault was, or that the AdBlue system was in fact faulty at that point.

In their email to us in July 2023, SMF referred to the independent inspection report that was arranged by the broker.

The inspection was carried out in February 2023, around a month after Mr W said his car had broken down. The report confirmed the engine wouldn't start, it also confirmed an AdBlue warning light was present. However, although the report confirmed faults were present it didn't consider the reported faults would have been present or developing at the point of supply.

I acknowledge Mr W has said the report should be withdrawn, however, I recognise the inspection was carried out by an industry expert and specialist. I've seen no reason to doubt the credibility or validity of the inspection or the report.

From the information provided, I have evidence that a fault with the AdBlue system exists, but what I don't have is evidence which says it was a problem when the car was supplied to Mr W.

Further evidence that persuades me the AdBlue system wasn't inherently faulty is that Mr W was able to travel around 8,000 miles up to the point of the inspection. I think it's reasonable to say that the amount of miles driven by Mr W since supply isn't insignificant. Considering the miles were completed within about eight months, I think this reasonably demonstrates that he was able to have fair usage of the car up to that point. I acknowledge Mr W says he's been topping up the AdBlue often, however, I'm not persuaded he'd have the opportunity to travel that distance had the AdBlue system been inherently faulty.

I acknowledge the report from the manufacture garage, outlining fault codes, that Mr W shared with us. However, unlike the invoices or independent inspection report, it doesn't have any specific commentary which details the likely causes of the fault codes or when they would have been created. So, it doesn't persuade me of the quality of the car when it was supplied.

All things considered, from all the information on file, I'm persuaded the car was of satisfactory quality when it was supplied to Mr W.

Mr W has made a significant submission to us in relation to this complaint; and much of it sets out his belief that the AdBlue system wasn't performing as it should have been. I acknowledge his strength of feeling about this and the financial impact he says it's had on him. However, without expert evidence to support what Mr W has said about when the fault occurred, I find it reasonable to conclude that the fault with the AdBlue system wasn't present when he acquired the car.

As I've concluded that the car was of satisfactory quality at the point it was supplied, I don't require SMF to take any action in respect of this complaint.

My final decision

Having thought about everything above along with what's fair and reasonable in the circumstances, I don't uphold Mr W's complaint about Specialist Motor Finance Limited

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 5 January 2024.

Benjamin John
Ombudsman