

## **The complaint**

Mr O complains about the quality of a car he has been financing through an agreement with STARTLINE MOTOR FINANCE LIMITED (who I'll call SMF).

## **What happened**

The details of this complaint are well known to both parties, so I won't repeat them again here. Instead, I'll focus on giving my reasons for my 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.

I know it will disappoint SMF, but I agree with the investigator's opinion. I'll explain why.

Where the information I've got is incomplete, unclear, or contradictory, as some of it is here I have to base my decision on the balance of probabilities.

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 O acquired his car under a hire purchase agreement. This is a regulated consumer credit agreement and as a result our service is able to look into complaints about it.

The Consumer Rights Act (2015) is the relevant legislation. It says that the car should have been of satisfactory quality when supplied. If it wasn't then SMF, who are also the supplier of the car, are responsible. The relevant law also says the quality of goods is satisfactory if they meet the standard that a reasonable person would consider satisfactory taking into account any description of the goods, the price and all the other relevant circumstances.

In a case like this which involves a car the other relevant circumstances would include things like the age and mileage at the time the car was supplied to Mr O. The car here was about seven years old and had already completed a little over 63,000 miles.

An old car with a high mileage will not be expected to be as good as a newer car with a low mileage, but it should still be fit for use on the road, in a condition that reflects its age and price.

Mr O told the broker about the problems he was having with the car as soon as he collected it. He complained that the car's Engine Management Light (EML) was illuminated, the car was dragging and there was a grinding noise from the engine.

The broker arranged for the EML issue to be fixed but I don't think there is evidence they ever arranged for the other matters to be resolved. The independent engineer who

eventually inspected the car in August 2022 noted that there were two broken rear suspension springs and that would appear to explain why the car was dragging and to confirm Mr O's earlier report. The independent engineer explained that he couldn't complete a road test because of the broken springs and that meant he couldn't comment on the banging or grinding noise that Mr O had said was coming from the engine. It was the engineer's opinion that:

*"We would consider that the faults found would not have been present or developing at the point of purchase based on the dates provided".*

But the independent engineer doesn't appear to have had the correct dates. I've not for instance seen that he was aware Mr O had reported banging and grinding from the engine and the car dragging, as soon as he'd collected the car. I think, if he had been aware of that, it would have been highly likely he would have considered the faults present at the point of supply, as I do.

Mr O arranged a diagnostic in January 2023 and that diagnostic confirmed that the timing belt and four coils needed to be replaced, and that the rear springs were broken. On the basis of Mr O's earlier reports I think it is likely all of these faults were present when the car was supplied to Mr O.

The relevant legislation doesn't allow the business to repair a fault if it's complained of within the first 30 days. But here I think Mr O was initially happy for repairs to be completed. But those repairs haven't been completed in a reasonable time and Mr O has explained that the engine has now failed on the car, and he's left it at the garage and returned it to SMF.

### **Putting things right**

I think the car should have been repaired when Mr O raised the issue. As those repairs have taken too long I think SMF should now allow Mr O to reject the car and end his finance agreement with them.

While we would usually allow the business to retain some of the finance instalments in respect of the use the consumer has had from the car, I don't think that would be fair here. Mr O has barely been able to drive the car since it was supplied to him. He complained about the faults immediately, and those faults were so significant that I think the mileage that was covered would have severely impacted Mr O's use of the car. I'm asking SMF to refund all the finance instalments Mr O has paid and to waive any that were due and haven't been paid. They'll need to add interest to any refund.

Mr O has been inconvenienced by these issues. He's not, for instance, been able to fund another car whilst he's been paying for this one, and he's had to get the faults diagnosed, and arrange to be present at an independent inspection. He's also had to use public transport and that's been particularly inconvenient as his partner is pregnant. In the circumstances, I think SMF should pay him £250 in compensation.

It was Mr O's decision to stop making payments towards his credit agreement. I can't, therefore, say SMF were wrong to record adverse reports on his credit file, or that they need to take any action with regard to the impact those adverse reports have had on Mr O. That said, as I'm persuaded the car was of an unsatisfactory quality I will be asking SMF to now remove those adverse reports.

Mr O was asked to commission a diagnostic and that cost should be refunded to him with interest. He's explained he's had to pay to have a reversing sensor fixed but I don't think it would be fair to ask SMF to refund that cost as I've seen no evidence that it was a fault

present when the car was supplied and, regardless, I would consider that a wear and tear issue for a car of this age and mileage. Mr O has also explained that he had to pay to have coils repaired. If he can provide a receipt for that work to SMF I think that is a cost that is likely to have been incurred as a consequence of a fault present at the point the car was supplied to him, as the need to replace coils was identified during the January diagnostic. In those circumstances, SMF should refund the repair cost and add interest.

Mr O is also unhappy that he's had to pay parking charges whilst the car has been left at the garage. The car wasn't driveable because it was supplied in an unsatisfactory condition. So, I think the parking charges were incurred as a consequence of the quality issues and that it would be fair for SMF to refund them, with interest, if provided with receipts from Mr O.

### **My final decision**

For the reasons I've given above, I uphold this complaint and tell STARTLINE MOTOR FINANCE LIMITED to:

- Allow Mr O to reject the vehicle and end the finance agreement.
- Refund any deposit that was paid and add 8% simple interest\* from the date of payment to the date of settlement.
- Refund any finance instalments Mr O has paid and waive any that haven't been paid but were due. Add 8% simple interest\* from the date of payment to the date of settlement.
- Pay Mr O £250 to compensate him for the distress and inconvenience he's experienced.
- Remove any adverse reports they may have made to Mr O's credit file in respect of this issue.
- Refund the cost of the diagnostic and the cost of any coil repair on provision of receipts from Mr O. Add 8% simple interest\* from the date of payment to the date of settlement.
- Refund the cost of any parking charges incurred when the car was left at the garage. Add 8% simple interest\* from the date of payment to the date of settlement.

\*If HM Revenue & Customs requires the business to take off tax from this interest they must give the consumer a certificate showing how much tax it's taken off if the consumer asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 10 January 2024.

Phillip McMahon  
**Ombudsman**