

The complaint

Mr R complains that a car acquired with finance from Startline Motor Finance Limited ("SMF") wasn't of satisfactory quality.

What happened

In November 2022 Mr R was supplied with a car and entered into a hire purchase agreement with SMF. At the point of supply the car was around 7 years old and had covered around 85,000 miles.

On collecting the car, the engine management light illuminated and a message about tyre sensors appeared. Mr R pulled into a garage and had to purchase two new tyres. Soon after this the clutch failed. Mr R took the car to a local garage and paid for repairs totalling £2,077.44 on 2 December 2022. These repairs consisted of new tyres, clutch repairs and a full service. Further repairs were carried out on 6 December 2022 when the exhaust was replaced.

Mr R contacted the supplying dealer and asked them to refund him for the cost of the repairs. Unable to resolve matters with the supplying dealer, Mr R complained to SMF in December 2022.

In its final response, SMF said it wasn't upholding the complaint because Mr R hadn't allowed the supplying dealer an opportunity to inspect the vehicle and carry out repairs.

Mr R remained unhappy and brought his complaint to this service. He wants a refund of the repair costs he's paid for and compensation for distress and inconvenience.

Our investigator upheld the complaint. He said he was satisfied that the vehicle had faults which were present or developing at the point of supply. He said that although Mr R hadn't allowed the supplying dealer to inspect the car before having repairs carried out at a third party garage, the repair costs charged by the third party garage weren't unreasonable. The investigator said that SMF should refund the repair costs relating to the clutch and the exhaust and pay compensation of £150 for the distress and inconvenience caused to Mr R.

SMF didn't respond to the investigators view so I've been asked to make 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.

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 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 R was around 7 years old and had covered around 85,000 miles. So it's reasonable to expect that parts of the car would already have a degree of wear and tear and that it was likely to require repairs and maintenance sooner than, say, a brand new car.

Under the Consumer Rights Act 2015, where a fault occurs with a car within the first six 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. The business is allowed one opportunity to repair the car. If the repair isn't successful, the consumer can reject the car.

I've reviewed the available evidence about the issues which Mr R experienced with the car. Based on what I've seen, I'm satisfied that there was a fault. I say this because I've seen evidence to show that both the clutch and the exhaust required replacement soon after the point of supply.

SMF didn't uphold Mr R's complaint on the basis that he hadn't given the supplying dealer the opportunity to inspect and repair the car, pursuant to its rights under the Consumer Rights Act 2015.

I can see that Mr R told this service that he contacted the supplying dealer when the clutch broke but was told that although they would take the car back, they weren't prepared to pay for any repairs. Taking into consideration the fact that the clutch broke within less than two weeks of the point of supply, I don't think the supplying dealer acted fairly. In the circumstances, I don't think it was unreasonable for Mr R to have the car repaired elsewhere.

I've already said that I'm satisfied that the car had a fault. I've gone on to consider whether the car was of satisfactory quality when it was supplied.

The car developed faults with the clutch and the exhaust almost immediately after the point of supply. The report from the repairing garage states that the exhaust would have been in a weakened state for some time and the clutch was slipping to the point where it could be smelt in the cabin of the car.

Given the short time between the point of supply and the faults occurring, and given the repairing garage's comments, I'm persuaded that the faults were present or developing at the point of supply. This means that the car wasn't of satisfactory quality at the point of supply.

The appropriate remedy here – had the supplying dealer acted fairly and in line with its obligations under the relevant legislation – would've been a repair. I've already explained why I don't think it was unreasonable for Mr R to have the car repaired elsewhere. In the circumstances I think it's fair to ask SMF to refund the cost of repairs to the clutch and the exhaust.

I'm not asking SMF to refund the costs of the tyres or the service. Tyres are serviceable items, and a car requires an annual service. These are costs that I'd generally expect a consumer to be responsible for.

The repairs have been successful so there's no grounds for asking SMF to allow Mr R to reject the car. Mr R has told this service that he wishes to retain the car anyway.

Putting things right

I've already explained why I think SMF should refund the costs of repairs to the clutch and the exhaust.

Its clear that Mr R has been caused a degree of distress and inconvenience as a result of being supplied with a car which wasn't of satisfactory quality. He had to pay for repairs himself just before Christmas, which left him short of money over the festive period. Taking everything into account, I think its fair to ask SMF to pay compensation for this. I think the sum of £150 is fair and reasonable.

My final decision

My final decision is that I uphold the complaint. Startline Motor Finance Limited must:

Refund Mr R the cost of repairs to the clutch and exhaust totalling £1504.12, together with 8% simple interest calculated from the date of payment to the date of settlement

Pay compensation of £150 for distress and inconvenience

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 28 March 2024.

Emma Davy
Ombudsman