

The complaint

Mr B complains about a new car he acquired through a conditional sale agreement with Tesla Financial Services Limited. Mr B says the car was damaged when he received it and attempts at repairing the damage have not been successful. He has asked that the car be repaired, at a location of his choice, replaced or the agreement is cancelled, and the car is returned.

What happened

Mr B took possession of a new car in early September 2022. On delivery, it was clear there were a number of areas of the car's bodywork that were defective, along with the general appearance and cleanliness of the exterior that was not what one would expect from a new car.

The car was returned so the bodywork issues could be rectified but they were not completed to the required standard. A second attempt was made but these repairs again were not adequate. After not being able to resolve matters with Tesla Financial Services Limited Mr B referred his complaint to our service. One of our investigators considered the complaint and set out why they considered the complaint should be upheld. In summary, they found the car was not of satisfactory quality and as the two attempts at repair were unsuccessful, Mr B should now be allowed to reject the car.

Tesla Financial Services Limited did not accept the investigator's conclusions and said it believes the redress was a little disproportionate. As the complaint could not be resolved informally it has been referred to me for consideration.

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 have come to the same overall conclusions as the investigator for what are broadly the same reasons.

Tesla Financial Services Limited supplied the car to Mr B through the conditional sale agreement and is therefore responsible for the quality of the car when provided to Mr B. There is no dispute the car had issues with the bodywork when it was supplied, nor does there appear to be any dispute the two attempts at repair have been unsuccessful. Having considered the circumstances of this complaint I am satisfied there were defects with the bodywork when the car was supplied, and after the attempted repairs.

The Consumer Rights Act 2015 sets out the test and expectations for satisfactory quality and although it will depend on the circumstances of any given case, it is relevant in my view that Mr B was acquiring a car that cost almost £60,000 and was brand new. It is therefore reasonable in my view for Mr B to have high expectations of the car and its condition. And for the car to be *free from minor defects*, as set out in the Consumer Rights Act 2015.

Considering the car was new, its price and the defects with the bodywork, I am satisfied the car was not of satisfactory quality when supplied to Mr B.

Putting things right

When considering what Tesla Financial Services Limited should do to put things right I have had regard to the remedies set out the Consumer Rights Act 2015. I note that two prior attempts at repair have been unsuccessful and I do not therefore consider Mr B should be put through the time and trouble of a third attempt at repair, especially without any clear assurances of all of the issues being remedied. I am also mindful that it is possible that any patched repairs will not be to the same standard as the factory applied paintwork.

Sourcing a replacement vehicle is often difficult, especially when trying to find the right model, colour and specification. And this may also take some time and Mr B is I'm sure keen to move on.

Having considered all of the circumstances here, I find that it would fair and reasonable for Mr B to now end his agreement with Tesla Financial Services Limited with nothing further owed and Tesla Financial Services Limited should arrange for the car to be taken back. Any collection costs are not Mr B's responsibility and Tesla Financial Services Limited should ensure the collection is arranged swiftly and at a convenient time for Mr B.

Mr B has had fair usage of the car and I think it is therefore reasonable that he pays for the usage he's had. I consider the monthly rentals that Mr B has paid while using the car, and the courtesy cars, are reasonable for the use Mr B has had and like the investigator, I do not therefore direct Tesla Financial Services Limited to refund the monthly rentals Mr B has paid to the conditional sale agreement.

Mr B should however be refunded the deposit/down payment he made at the start of the agreement and interest at 8% simple should be added to this sum from the date of payment until the date of settlement.

Mr B has referred to Tesla Financial Services Limited potentially delaying matters while he is still required to make the monthly rentals to the conditional sale agreement. Tesla Financial Services Limited should implement all of the redress elements I have set out here swiftly, upon receipt of Mr B's acceptance of this decision. Once the car has been collected, Tesla Financial Services Limited should ensure no further repayments are taken from Mr B. If any are, they should be refunded quickly.

Mr B has also been put to some trouble and upset, plus having the experience of getting a new car tarnished to some extent. Mr B had to arrange two separate repairs and I'm sure was disappointed both times when he realised they were inadequate repairs. In addition to what I have set out above Tesla Financial Services Limited should pay Mr B a further £250 in recognition of the distress and inconvenience he has been caused.

I note that Tesla Financial Services Limited believes this remedy to be 'a little disproportionate' but I completely disagree. An alternative would be to insist Mr B make do with a poor quality vehicle or allow even further attempts at repair. I do not consider that to be fair or reasonable and I am satisfied the remedy set out above is appropriate and proportionate in all the circumstances of this complaint.

My final decision

My final decision is that I uphold Mr B's complaint against Tesla Financial Services Limited and instruct Tesla Financial Services Limited to settle the complaint in line with what I have

set out in the putting things right section above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 19 October 2023.

Mark Hollands
Ombudsman