

## **The complaint**

Mrs L is unhappy with a car supplied under a conditional sale agreement with Tesla Financial Services Limited trading as Tesla Financial Services ('Tesla').

## **What happened**

In December 2022 Mrs L acquired a new car under a conditional sale agreement with Tesla. The car cost £62,280 and Mrs L made an advance payment of £11,700. The rest of the balance was due to be paid over 48 repayments of £758.73 followed by a final repayment of £23,043.60.

Unfortunately, Mrs L said the car had issues. She emailed Tesla in December 2022 and said the car vibrated at motorway speeds and had a rattle from the rear. Mrs L told Tesla she wished to reject the car. Mrs L later raised some further issues with the car including with the windows, automatic headlights and stitching on the seats.

Tesla explained it would look into Mrs L's concerns and it issued a final response at the end of January 2023. This explained, in summary, that a mobile technician had visited the car around two weeks prior and investigated the issues that Mrs L raised.

Tesla said it found no faults with a vibration from the steering wheel or the windows not closing. It said the issue with the headlight main beam coming on would be fixed with a firmware update. It did acknowledge that stitching had come loose on the rear seats, but it said this wasn't reasonable grounds to return the car.

Mrs L responded and said the car had rattles from "all over the interior". Tesla said that because vibrations and rattles were excluded from its warranty, it couldn't consider this as a reason to return the car.

Mrs L brought the complaint to our service. In summary, she said the car has issues with rattling, stitching on the seats coming off, the adaptive cruise control system putting brakes on dangerously and the adaptive headlights remaining on full beam. Mrs L said she wanted to return the car to Tesla.

Shortly after she referred the complaint to our service, in February 2023 Mrs L got an independent inspection carried out on the car. This recorded the mileage as 3,696. The inspection noted:

- loose stitching on a rear seat
- the inspector had seen a video where the headlights didn't 'dip' when entering a street lit residential area
- an issue with a window opening where it would begin to travel and then reverse back

- issues with squeaks and rattles from the car
- the cruise control automatically braking momentarily when no other vehicles or obstacles were in close proximity
- B pillar trims poorly fitted

Mrs L also let our service know that she had stopped driving the car and had acquired a new one. She was unhappy with paying for two finance agreements and said this was causing her issues.

Our investigator issued an opinion and upheld the complaint. She said, in summary, that she didn't think the car supplied to Mrs L was of satisfactory quality due to the issues noted by Tesla and the independent inspection.

Our investigator said Mrs L should be able to reject the car. She said Mrs L had explained she stopped driving the car in March 2023, so all repayments made from this point should be refunded. She said 20% of the repayments up to this point should be refunded to reflect the impaired usage Mrs L had. She said Tesla should pay Mrs L £300 to reflect the distress and inconvenience caused. And she said Tesla should remove any negative information from Mrs L's credit file about the agreement.

Mrs L replied and said she had acquired her new car on 4 February 2023, rather than in March 2023, and she'd stopped using this car at this point. And she said she'd had to pay £80 to have a private plate transferred from the car.

Our investigator got in touch with Tesla and asked it to consider reimbursing the cost of transferring the plate from Mrs L's car.

Our investigator explained to Mrs L that, during a phone call with our service, Mrs L had mentioned she was still using the car in February 2023. So she said she still thought it was fair for Tesla to reimburse the full payments from March 2023 when she originally said she stopped using the car.

Tesla also responded and said it thought the issues were minor and weren't 'defects'. So it said these were not grounds for the return of the car.

As Tesla disagreed, the complaint was passed to me to decide.

I sent Tesla and Mrs L a provisional decision on 29 June 2023. My findings from this decision were as follows:

*Mrs L complains about a car supplied under a conditional sale agreement. Entering into consumer credit agreements such as this as a lender is a regulated activity, so I'm satisfied I can consider Mrs L's complaint about Tesla.*

*When considering what's fair and reasonable, I take into account relevant law and regulations. The Consumer Rights Act 2015 ('CRA') is relevant to this complaint. The CRA explains under a contract to supply goods, the supplier – Tesla here – has a responsibility to make sure goods are of satisfactory quality. Satisfactory quality is what a reasonable person would expect – taking into account any relevant factors.*

*I would consider relevant factors here, amongst others, to include the car's age, price, mileage and description. So, I'll consider here that the car supplied to Mrs L was brand new and cost over £60,000. This means I think a reasonable person would have very high*

*standards for the quality of the car. I think they would expect it to be in mint condition, free from even minor faults and would expect trouble free motoring for some time.*

*What I need to consider in this case is whether the car supplied to Mrs L was of satisfactory quality or not.*

*The first thing I need to consider is whether there were faults with the car. Having reviewed the evidence, I think it's obvious this was the case. I'll explain why.*

*I should firstly say that, while the invoice Tesla supplied from where the mobile technician attended the car does briefly mention some of the issues Mrs L complains about, there is very little to no commentary and very few details here. So, I haven't put much weight on this.*

*The independent report Mrs L provided gives some further information which I think is more persuasive. This noted:*

*"The stitching of the rear seat base cover is loose and becoming unfastened allowing the sections of the seat cover to become separated"*

*"An intermittent fault occurs with the operation of the drop glass, whereby it commences it's travel and then reverses and travels in the opposite direction. This was witnessed occurring to the right front drop glass during our inspection"*

*"On road test we noted a high level of creaks and squeaks emanating from the interior trims and rear seat. The creaks and squeaks were noticeably coming from the luggage compartment area, and from the driver's side inner roof rail/headlining area"*

*"There would seem to be an intermittent fault with the cruise control in that the car will on occasions break momentarily when there are no other vehicles or obstacles in close proximity. This was witnessed to occur during a road test."*

*"We noted the 'B' pillar interior trims on both sides were poorly fitted"*

*"The seat belt height adjuster trims were found to be loose, and extremely poorly fitting on both sides"*

*The issues noted in the report reflect what Mrs L made Tesla and our service aware of. So, I'm satisfied the car had the faults detailed above.*

*I've also noted that this report was carried out less than three months after the car was delivered to Mrs L. And the mileage was recorded as 3,696. Given how soon this was after Mrs L got the car, and that she'd covered under 4,000 miles, I'm satisfied these faults were either present or developing when the car was supplied.*

*In relation to the headlights, I'm less persuaded there was a fault here. I say this as the independent inspection based its findings, in relation to the headlights, from a video, rather than witnessing things directly.*

*I've also reviewed the video Mrs L gave to our service. But, it's difficult to see exactly what is happening and the external conditions - and so it's very hard to conclude if the system was working correctly or not.*

*That being said, I don't need to make a finding on whether the headlights were faulty. That's because, due to the other issues above, either way this individual issue wouldn't affect my opinion on the case nor what I would consider to be fair and reasonable to put things right.*

*Tesla said that these faults were minor issues and not 'defects'. And so it said Mrs L shouldn't be able to return the car. But, I strongly disagree here. I'm not sure of the distinction Tesla makes with its point here between a 'fault' or a 'defect'. But, I'm satisfied these issues are present, whatever they are referred to as. I also would not describe some of these issues as 'minor' – particularly the interior noises and the cruise control braking, which could be a serious safety concern.*

*Even if I accepted what Tesla said here about the issues being minor, I'm satisfied a reasonable person would not expect even small issues on a car that was brand new and cost over £60,000.*

*It's also worth noting to Tesla that I also disagree with its earlier response to Mrs L, where it said that because rattles or vibrations aren't covered under a warranty, it couldn't consider rejecting the car due to these issues. Any warranty terms and conditions are separate from Mrs L's rights under the CRA and I'm satisfied what is covered under the warranty, or not, has no bearing on whether the car was of satisfactory quality in this case.*

*Considering everything here, I'm satisfied the above issues meant the car supplied to Mrs L was not of satisfactory quality. So, I now need to consider what would be fair and reasonable to put things right.*

*I've firstly considered Mrs L's rights under the CRA. The CRA explains a consumer has the 'short term right to reject' if goods are of unsatisfactory quality and the consumer exercises this right within 30 days of the goods being transferred to their possession.*

*As above, I'm satisfied the goods were not of satisfactory quality. And I've seen an email to Tesla where Mrs L asked to reject the car around two weeks after she took delivery of it. So I'm satisfied Mrs L both had a short term right to reject the car, and exercised this right within the time limits set out in the CRA. It follows I'm satisfied Tesla should've allowed her to reject the car, and I think it's fair and reasonable that Mrs L should still be able to do this.*

*I then need to consider what else would be fair and reasonable to put things right.*

*I've thought about Mrs L's use of the car. It isn't in dispute that Mrs L did use the car for a period. Mrs L has been a little inconsistent in what she told us here – she originally told our service she acquired a second car in March 2023 and so stopped driving this car. She later said the newer car was delivered at the beginning of February 2023. Based on what I've seen so far and having listened to the call with our investigator, I think it's most likely Mrs L stopped driving this car around the beginning of March 2023. So, I think Tesla should reimburse her any repayments made since this point.*

*That being said, I do understand it's perfectly possible for Mrs L to have made an innocent mistake here. So, if she can provide some further evidence about this, such as a current photo showing the mileage being the same, or very close to, the mileage recorded from the independent report in February, I will happily reconsider this. It's worth noting to Tesla that if Mrs L does send this evidence, I'll likely detail in my final decision that all repayments should be reimbursed from February 2023.*

*I've also thought about how the car was performing when Mrs L drove it. While as above I'm satisfied she used it, I'm also satisfied this usage was impaired due to the faults the car had.*

*I agree with our investigator that it would be fair and reasonable to reimburse 20% of repayments for the time Mrs L drove the car.*

*I also agree with our investigator that Mrs L has been caused distress and inconvenience*

*because of what happened. I think it must have been stressful to discover the issues with the car. Mrs L has explained a car is essential to her due to where she lives and this situation has affected her family life. She said she hasn't felt safe when using this car. She's had to spend time and effort sourcing and acquiring a new car. And she said she struggled with financing two cars at one time. I agree with our investigator that Tesla should pay Mrs L £300 to reflect this.*

*Mrs L also had to pay out for the independent inspection. Our investigator didn't mention this, but I think it's fair Tesla should reimburse her here. That being said, I haven't seen evidence of the cost. So, Tesla only needs to reimburse this on production of a valid invoice and/or receipt.*

*I've also seen evidence that Mrs L paid £80 to transfer a number plate from the car in January 2023. Thinking about this, unless Mrs L decided to keep the car at the end of the agreement, she was always going to have to pay this. But, given this was transferred so soon into the agreement, I'm satisfied Mrs L didn't get the benefit of transferring the plate, so I also think this should be reimbursed.*

*Mrs L has also raised that she has paid to have a charger installed at her home. But, I can't see this formed part of the credit agreement. And I also think it's possible she may have future benefit of this, or it's possible she may have other recourse for a refund here. So, I don't think Tesla needs to take any action on this point.*

I gave both parties two weeks to come back with any further evidence or points to consider.

Tesla didn't respond.

Mrs L got in touch and said she agreed with my provisional decision. And she provided an invoice for the independent inspection of £198 from 7 February 2023.

### **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've thought about all of the information on this case again. Having done so, I still think it should be upheld. This is due to the reasons I explained in my provisional decision and set out above.

### **My final decision**

My final decision is that I uphold this complaint. I instruct Tesla Financial Services Limited trading as Tesla Financial Services to put things right by doing the following:

- Cancel the agreement with nothing further to pay\*
- Collect the car at a time and date suitable for Mrs L
- Reimburse Mrs L the advance payment of £11,700\*\*
- Reimburse Mrs L all repayments from 1 March 2023\*\*
- Reimburse Mrs L 20% of all repayments made towards the agreement until 1 March 2023\*\*

- Reimburse Mrs L £198 for the cost of the independent report from 7 February 2023\*\*
- Reimburse Mrs L £80 for the transfer of the number plate from 31 January 2023\*\*
- Pay Mrs L £300 to reflect the distress and inconvenience caused
- Remove any adverse information from Mrs L's credit file in relation to this agreement

\*Mrs L has mentioned Tesla has said it may apply late payment fees to the account since she brought the complaint to our service – to be clear these should be waived if any have been added

\*\* These amounts should have 8% simple yearly interest added from the time of payment to the time of reimbursement. If Tesla considers that it's required by HM Revenue & Customs to withhold income tax from the interest, it should tell Mrs L how much it's taken off. It should also give Mrs L a tax deduction certificate if they ask for one, so they can reclaim the tax from HM Revenue and Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs L to accept or reject my decision before 15 August 2023.

John Bower  
**Ombudsman**