

The complaint

Mr M complains that the car he acquired through a conditional sale agreement with Hyundai Capital UK Limited (HCUK) wasn't of satisfactory quality.

What happened

Mr M entered into a conditional sale agreement with HCUK in November 2021 to acquire a new car. In 2023, he says that he started to experience some intermittent issues with the car's electrics and the car not starting. He contacted the dealership and was told he couldn't book the car in until mid-July. Mr M was away until 8 July and on his return the issues got worse. While driving on a motorway he was stopped by the police as his nearside rear splash shield was hanging down. He says he was told it hadn't been attached properly. Mr M took the car to the dealership but was told he would need to pay for the repair as it wasn't covered by his warranty. Mr M contacted HCUK as he didn't think the car was of satisfactory quality at the point of supply but says his concerns were dismissed.

HCUK issued a final response letter dated 14 July 2023. It said that Mr M had contacted it about a component coming away from the rear of the car and the manufacturer refusing to cover the cost of the repair. It said that as Mr M had raised the issue more than six months after he acquired the car, he needed to evidence that the issue was due to a fault present at the point of supply.

Our investigator didn't uphold this complaint. While she acknowledged that there may have been a fault with the car, she didn't think this meant the car wasn't of satisfactory quality at the point of supply. She noted that Mr M acquired the car in November 2021 and the issues were raised in July 2023 after the car had been driven over 8,000 miles. She noted Mr M's reasons for not obtaining an independent inspection report but said without further evidence to show there were issues present at the point of supply she couldn't say the car wasn't of satisfactory quality. She noted that Mr M had traded in the car, so no inspection could now be done.

Mr M didn't agree with our investigator's view. He noted that the car was only two years old, and he had experienced electrical issues and the plastic casing fell off. He said he had provided reasonable proof of the car not being of satisfactory quality. Mr M didn't feel that the emotional impact of the loss of enjoyment and heightened anxiety had been taken in account and neither had the time he had spent in the dealership.

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.

Mr M acquired a new car under a conditional sale agreement. Under the regulations, specifically noting the Consumer Rights Act 2015 (CRA), HCUK can be held liable in certain circumstances if the car supplied wasn't of satisfactory quality. Satisfactory quality takes into account factors such as the age, mileage and price of the car. In this case Mr M acquired a new car and so it is reasonable that he would expect it to be free from faults, including minor

defects.

I note Mr M's comments about the issues he experienced and the upset and anxiety these have caused. I appreciate that the car was less than two years old when the issues first arose and having considered the evidence provided, including Mr M's testimony, I can understand why he feels that the car wasn't of satisfactory quality. But for me to uphold this complaint, I would need to be satisfied that the issues that arose were due to faults that were present or developing at supply and that reasonable action wasn't taken to remedy these.

Mr M took delivery of the car on 1 December 2021 and reported the issues in July 2023. By this time, he had been able to drive the car around 8,000 miles and had been in possession of the car for over 18 months. Under the CRA, for issues that arise after the first six months the consumer is generally required to provide the evidence to show that the issues were due to faults that were present or developing at the point of supply.

The first issues Mr M noted were electrical issues. Mr M said these were intermittent and that it was identified that the battery needed to be changed. While I can understand that Mr M wouldn't have expected to have needed the battery to be changed within this timeframe, as the battery was changed under warranty and I have nothing to suggest that this didn't resolve the issues, I find this a reasonable remedy.

The second issue was that the splash shield came loose. Mr M said that the mechanics couldn't say why this had happened. Looking at the information provided it is suggested this could have happened for several reasons including stone chips and speed bumps. I note the comments Mr M has made about this but I cannot, based on the evidence I have seen, say this issue was the result of a fault present or developing at supply.

It was suggested to Mr M that he have an independent inspection carried out on the car to identify further evidence of the cause of the issues he had experienced. While I understand why Mr M didn't do this, without further evidence in this case I do not find I have enough to say that HCUK was wrong not to uphold this complaint.

I am sorry to hear of the loss of enjoyment Mr M experienced and the anxiety the issues with the car caused him. But, in this case, as I do not find I can say the car wasn't of satisfactory quality at the point of supply, I do not find I can uphold this complaint.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 1 April 2024.

Jane Archer
Ombudsman