

The complaint

Mrs T complains about the quality of a car she has been financing through an agreement with Toyota Financial Services (UK) PLC (who I'll call TFS).

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 TFS, 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.

Mrs T acquired her 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 TFS, 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. Whether a car has been durable is also a relevant consideration.

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 Mrs T. The car here was a little over four years old and had already completed about 34,500 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.

Mrs T first experienced faults with the car about four months after she took receipt of it. The gearbox faulted and the car was returned to various garages who weren't able to repair the problem. The car has been with an approved dealership since 18 July 2023 when it was recovered to them. They identified some rodent damage and, therefore, needed to repair damage to the wiring on the fuel rail, exhaust temperature sensor, pressure sensor, and

engine mount. But that didn't remedy the problems Mrs T complained of and the car is still with the dealership. The invoice suggests it is misfiring and I can see they explained to the supplying dealership that it was subject to intermittent stalling. Mrs T says the approved dealership have now explained they are unable to fix the car.

I don't think a reasonable person would expect to have an unresolvable problem with a car after only about 35,000 miles of use. I don't think that suggests the car has been durable. TFS say a fault with a gearbox would be normal at this age and mileage and should be considered fair wear and tear. But I don't think that's reasonable and, regardless, I don't think we even have evidence the fault is gearbox related. It's a fault that can't be repaired.

The relevant legislation allows a business one opportunity to fix a problem in those circumstances. But there have been unreasonable delays in completing a repair here and there appears to be no fix on the horizon. In those circumstances, I think TFS should now allow Mrs T to reject the car.

Putting things right

TFS should collect the car at no cost to Mrs T and they should end the finance agreement.

They'll need to refund any deposit Mrs T has paid and, as she's been deprived of that money, they will need to add interest to that refund.

Mrs T has been unable to use the car since it was recovered to the approved dealership on 18 July 2023. It's not fair for her to have been paying for a car she couldn't use so TFS should refund any finance instalments paid, or waive them if they were due and haven't been paid, since 18 July 2023. TFS have offered to refund one monthly instalment for loss of use before 18 July 2023 and having reviewed the timeline on this case I think that is reasonable and should also be paid if it hasn't been already. TFS will need to add interest to any refunds.

Mrs T paid £824.07 to fix problems related to rodent damage. I don't think it's likely that damage occurred before the car was supplied to her as I think Mrs T would have been likely to have experienced problems with the car as soon as she drove it away, or at most within a few days. I'm not, therefore, asking TFS to refund that repair cost.

Mrs T has also provided an invoice for £895.06 that she says she paid in December 2023. The invoice is for repairs to replace a code fuel valve and hose in order to resolve an engine misfiring problem. Those repairs appear to be related to the current problem and haven't resolved matters for Mrs T. TFS should refund the cost of that invoice if Mrs T can provide proof of payment and they will need to add interest to the refund as Mrs T has been deprived of the money.

Mrs T has been inconvenienced by these issues. She's had to take the car for repair on several occasions, has had to make alternative transport arrangements to get her son to school, and I've read about the impact she has explained the whole issue has had on her health. In the circumstances I think TFS should pay her £300 compensation for the distress and inconvenience caused.

Mrs T has provided a couple of invoices for hire car costs she says she has incurred since the car has been with the approved dealership. No courtesy car was provided while her car was being repaired but as I'm suggesting instalments are to be refunded when Mrs T was deprived of her car, it wouldn't be fair for me to suggest hire car costs were refunded as well.

My final decision

For the reasons I've given above, I uphold this complaint and tell Toyota Financial Services (UK) PLC to:

- Allow Mrs T to reject the car and end the finance agreement.
- Collect the car at no cost to Mrs T.
- Refund any deposit that has been paid and add 8% simple interest* per year from the date of payment to the date of settlement.
- Refund any finance instalments paid since 18 July 2023 in respect of loss of use. Waive any that were due and haven't been paid and add 8% simple interest* per year to any refund from the date of payment to the date of settlement.
- Refund one monthly finance instalment in respect of loss of use prior to 18 July 2023, unless they have already done so. Add 8% simple interest* per year from the date of payment to the date of settlement.
- Refund the cost of the December 2023 invoice on provision of proof of payment from Mrs T. Add 8% simple interest* per year from the date of payment to the date of settlement.
- Pay Mrs T £300 to compensate her for the distress and inconvenience she's experienced.
- Remove any adverse reports they may have made to Mrs T's credit file in relation to this issue.

*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 Mrs T to accept or reject my decision before 24 April 2024.

Phillip McMahon
Ombudsman