

The complaint

Mr D is unhappy that a van supplied to him under a hire purchase agreement with Oodle Financial Services Limited trading as Oodle Car Finance was of an unsatisfactory quality.

What happened

On 7 November 2023, Mr D was supplied with a use van through a hire purchase agreement with Oodle. He paid an advance payment of £471.80, and the agreement was for £9,487 over 60 months; with an initial payment of £302.99, 58 monthly payments of £252.99, and a final payment of £302.99. At the time of supply, the van was almost five and a half years old and had done around 91,500 miles.

After taking delivery of the van, Mr D says he contacted the supplying dealership the same day about a tear in the seat, a rear light not working, and because the van was too small for him, with the driving position causing him pain. And he asked for the agreement to be cancelled and to return the van.

The dealership didn't respond to his contact so, on 12 November 2023, Mr D contacted Oodle and asked to return the van. Then, on 23 November 2023, Mr D signed a new agreement for a different vehicle. It was around this time that Mr D also fell seriously ill.

Oodle responded to Mr D on 30 November 2023 and said *"we have received confirmation that you're looking to reject this vehicle from your arranger. Due to this, we have started our rejection process and once funds have been received [from the supplying dealership] we will be in touch with confirmation that your account is closed."*

Mr D chased Oodle for collection of the van on 14 December 2023 and advised them his new vehicle was being delivered on 18 December 2023. However, on 19 December 2023, Oodle advised Mr D that the dealership hadn't agreed to the van being rejected. In response, Mr D advised them that he was no longer working, and was unable to afford the van.

After speaking to Mr D about his complaint, Oodle formally responded 18 January 2024. Within this letter they again confirmed that he was unable to reject the van, but explained they were able to consider the issues with the light and seat damage – he'd been asked to get the seat repaired and told he would be reimbursed for this cost; and told they could arrange to repair the light after receiving confirmation of a fault by way of a diagnostic report.

Mr D wasn't happy with what'd happened, and he brought his complaint to the Financial Ombudsman Service for investigation.

Our investigator said the issues with the van didn't make it of an unsatisfactory quality when it was supplied, so Mr D didn't have the right of rejection. However, they thought Oodle's communication was misleading about whether Mr D was able to reject the van. While this didn't induce Mr D to purchase a replacement vehicle, as this had already been done before Oodle advised Mr D they were processing the rejection, the investigator said that Oodle should compensate Mr D £200 for the distress and inconvenience caused.

The investigator also said that, if they hadn't done so already, Oodle should reimburse Mr D for the cost of the repair to the seat and arrange to fix the faulty light.

Oodle agreed with the investigator, but Mr D didn't. He said he wanted to reject the van "*as stated in [Oodle's] correspondences received in 2023.*" And he's asked for an ombudsman 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.

Having done so, I've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome. Where evidence has been incomplete or contradictory, I've reached my view on the balance of probabilities – what I think is most likely to have happened given the available evidence and wider circumstances.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Mr D was supplied with a van under a hire purchase agreement. This is a regulated consumer credit agreement which means we're able to investigate complaints about it.

The Consumer Rights Act 2015 ('CRA') says, amongst other things, that the van should've been of a satisfactory quality when supplied. And if it wasn't, as the supplier of goods, Oodle are responsible. What's satisfactory is determined by things such as what a reasonable person would consider satisfactory given the price, description, and other relevant circumstances. In a case like this, this would include things like the age and mileage at the time of sale, and the vehicle's history and its durability. Durability means that the components of the van must last a reasonable amount of time.

The CRA also implies that goods must conform to contract within the first six months. So, where a fault is identified within the first six months, it's assumed the fault was present when the van was supplied, unless Oodle can show otherwise. But, where a fault is identified after the first six months, the CRA implies that it's for Mr D to show it was present when the van was supplied.

So, if I thought the van was faulty when Mr D took possession of it, or that the van wasn't sufficiently durable, and this made the van not of a satisfactory quality, it'd be fair and reasonable to ask Oodle to put this right.

In this instance, it's not disputed there was a problem with the seat, the lights, or that Mr D couldn't comfortably fit in and drive the van. It's also not disputed that Oodle's communication led Mr D to believe that he was able to reject the van. As such, I'm satisfied that I don't need to consider the merits of this issue within my decision. Instead, I'll focus on what I think Oodle should do to put things right.

Putting things right

As I've explained above, the van needed to be of a satisfactory quality when it was supplied. And when considering this, I also need to consider this was a commercial vehicle, its age and mileage, and what a reasonable person would consider satisfactory. As I've said, it's not disputed that there was a tear in the seat, or that a light wasn't working. And, taking the above into consideration, I'd don't think it's unreasonable to find issues like this in a vehicle

of this age and mileage. As such, I don't agree the faults make the van of an unsatisfactory quality when supplied.

Although the CRA allows for rejection within the first 30-days, this is only if the goods supplied are of an unsatisfactory quality. As this wasn't the case, and while I appreciate this will come as a disappointment to Mr D, this means he did not have the right of rejection.

Turning to the driving position, Mr D has confirmed he's around 6'8" tall. And his height means he needs to be able to move the seat back so he can comfortably and safely drive. Given this, I consider that any reasonable person would ensure this was possible before taking possession of the van. While Mr D has said that he wasn't able to drive the van before it was delivered to him, the dealership has said he was at their premises for around an hour. So, during this time, had Mr D wanted to check the seat positioning he was able to do so.

But, notwithstanding this, even if Mr D wasn't able to check the seat positioning, as he's implied was the case, his inability to obtain a comfortable driving position doesn't make the van of an unsatisfactory quality under the CRA. So, again, this means Mr D didn't have the right of rejection.

Mr D asked if he could reject the van and advised Oodle that he'd asked for this. So, in their initial correspondence with him Oodle assumed the rejection had already been agreed with the dealership, and their advice was based on this assumption. Which turned out to be incorrect. I'm satisfied that Oodle should've checked with the dealership that they'd agreed rejection (as, for the reasons stated, the CRA didn't give Mr D the right to reject) before they advised Mr D on 30 November 2023 that they were processing the rejection.

It wasn't until mid-December 2023 that Oodle advised Mr D they weren't rejecting the van, which means for around three weeks Mr D was under the false impression that Oodle were collecting the van and unwinding the agreement. When something like this happens, it's my role to put Mr D as far as possible back in the position he would've been had the error not occurred.

Mr D has asked that Oodle honour their 2023 correspondence and allow him to reject the van. However, had Oodle not made their error, they would've advised him in late November 2023 that he had no right to reject the van. As such, it wouldn't be fair to put Mr D in a position he never should've been in i.e., where he has the right of rejection. As such, I won't be directing Oodle to allow rejection.

Instead, I've considered the impact of this misinformation on Mr D. While this happened at the same time as his medical diagnosis, and after he'd agreed to finance a different vehicle, and while this would've added to Mr D's stress, I'm only considering the impact that flows directly from Oodles actions – Mr D's belief that he was able to reject the van from 30 November to mid-December 2023.

The investigator had recommended Oodle pay Mr D £200 compensation for what's happened, and Oodle have agreed to do so. As this is in line with what I would've directed had no recommendation been made, I see no compelling reason not to adopt this as part of my final decision. I'll also be including Oodle's offer to repair the faults with the van, even though the faults didn't make it of an unsatisfactory quality at the point of supply.

Therefore, Oodle should (if they haven't already done so):

- arrange to repair the fault with the rear light or, if this has already been done by Mr D, upon receipt of proof of payment, reimburse him for the cost of repair;

- upon receipt of proof of payment, reimburse Mr D with the cost of the repair to the tear in the seat;
- apply 8% simple yearly interest on the reimbursements, calculated from the date Mr D made the payments to the date of the refund[†]; and
- pay Mr D an additional £200 to compensate him for the trouble and inconvenience caused by being mis-advised they were processing the rejection of the van.

[†]If HM Revenue & Customs requires Oodle to take off tax from this interest, Oodle must give Mr D a certificate showing how much tax they've taken off if he asks for one.

My final decision

For the reasons explained, I uphold Mr D's complaint about Oodle Financial Services Limited trading as Oodle Car Finance. And they are to follow my directions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 4 July 2024.

Andrew Burford
Ombudsman