

## The complaint

Mr O complains about the quality of a used car he acquired through a finance agreement with Hyundai Capital UK Limited trading as Hyundai Finance ('Hyundai'). Mr O says that the car is of poor quality and Hyundai has been unable to remedy the problems the car has.

## What happened

Our Investigator thought the complaint should be upheld. Hyundai disagreed with the Investigator's opinion. The complaint was then passed to me.

I issued my provisional decision saying that Mr O's complaint should be upheld. A copy of the background to the complaint, and my provisional findings are below, in italics, and they form part of this final decision.

## What I said in my provisional decision:

*Mr O's complaint is about the quality of a car he acquired in September 2021. The car was used, and it was first registered in 2020. So, it was about a year old when Mr O received it. It had covered 17,250 miles.*

*Mr O acquired the car using a conditional sale agreement that was started in September 2021. The vehicle had a retail price of £25,000 and all of this was financed. The agreement was to be repaid through 60 monthly instalments of £469.42. If Mr O made repayments in line with the credit agreement, he would need to repay a total of £28,165.20.*

*Mr O has complained about the quality of the car. Below is a summary of the issues complained of by Mr O and the investigation and repair work that has been carried out by the dealership and other garages. There are also some independent reports. This is alongside what has happened in respect of the complaint.*

*I will say at this point that whilst I have considered all of what has been provided, I won't outline all of it in detail. This is because I presently think that the car wasn't of satisfactory quality and that the repair that took place in September 2022 wasn't made in a timely manner. And this should mean that Mr O now has the right to reject the car.*

*Mr O had other problems with the car before and after this and I will note these. But I don't think they are the deciding factors in whether this complaint should be upheld or not. So, I won't provide a lot of detail about some of the other problems Mr O has had with the car.*

*Mr O says that two months after he collected the car, he noticed that it was veering to the left. And some of the bodywork was misaligned. He says that he reported this to the dealership straight away, but no action was taken at this time. Mr O says he continued to raise the problems he was having with the car to the dealership going forward and I can see that he did.*

*In September 2022, the car broke down due to engine problems which I understand were related to the engine control sensor and the crankshaft and camshaft position sensors. The car was recovered to the dealership on 3 September 2022. The car had travelled 27,192 miles at this point. Whilst Mr O accepted a repair to the car as a resolution, and was provided with a hire car, the car was not returned to him until 17 July 2023. Over ten months later. I understand the car was fitted with a new engine.*

Mr O says an Engine Management Light ('EML') was present three days after the car was returned to him. The car broke down again on 8 September 2023 and the recovery company confirmed said the problem was likely to be an issue with the engine control module. I can see the car engine management system was repaired again by the dealership on 19 December 2023. And the car was again returned to the dealership on 5 January 2024 for further problems with the engine management system or an engine warning light.

The information I've been provided shows that the car broke down again on 5 April 2024. And Mr O was provided with a hire car again at this point. I understand the hire car was returned on 5 September 2024. He has been without transport since this time as he currently doesn't have the car back.

Mr O has complained to the dealerships that sold, and have worked on, the car and he's also complained to Hyundai. He has complained about the quality of the car and the length of time it has taken to have it repaired.

Hyundai considered this complaint, and it didn't uphold it. It said that the car had been repaired. And it didn't consider that the faults the car had were present at the time of sale as Mr O had the car for more than six months before it initially broke down.

Mr O hasn't agreed with Hyundai, in both how it has attempted to repair the car and how it has considered his complaint. He has brought it to the Financial Ombudsman Service.

Our Investigator has upheld Mr O's complaint over several communications. She didn't think that the car was of satisfactory quality, and she thought that Mr O should be paid compensation. I note that our Investigator has said that Mr O should be able to reject the car and then, later, that it should be repaired.

Hyundai doesn't agree with the Investigator. It has said that because the fault with the engine or engine management system took place around a year after the point of supply, they were unlikely to have been present at the time of sale. That said, it has agreed to repair the car again, if Mr O agrees to this as a way of resolving this complaint.

It's clear that Mr O now wants to reject the car, rather than have it repaired. And this complaint is not resolved. Because of this it has been passed to me to issue a decision.

### **What I've provisionally 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.

In considering what is fair and reasonable, I need to have regard to the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and (where appropriate) what I consider was good industry practice at the relevant time.

The agreement in this case is a conditional sale agreement – so we can consider a complaint relating to it. Hyundai as the supplier of the goods under this type of agreement is responsible for a complaint about their quality.

The Consumer Rights Act 2015 ('CRA') is relevant to this complaint. It says that under a contract to supply goods, there is an implied term that 'the quality of the goods is satisfactory'.

To be considered 'satisfactory', the goods would need to 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. So, it seems likely that in a case involving a car, the other relevant circumstances a court would take into account might include things like the age and mileage at the time of sale and the car's history.

*The CRA quality of the goods includes their general state and condition and other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability can be aspects of the quality of goods.*

*This car was about a year old when Mr O acquired it and it had travelled around 17,250 miles. I think a reasonable person would accept that such a vehicle would probably have some parts that are becoming worn and would need replacing at some point. But there's also a reasonable expectation that a vehicle will be durable - considering its age, price and mileage at the outset. So even though the vehicle wasn't new, as it was only a year old, Mr O should have been able to use it for a significant period before it needed any major repairs.*

### **Was there a fault with the car**

*Mr O says that the car has steering or tracking problems, and these have been there from when he acquired it. This has been investigated several times and there are varying indications of the severity of this. But Hyundai has agreed that a repair should be made to this part of the car.*

*And the car has also had persistent and a seemingly serious problem with the engine and engine management system. It has broken down several times due to this and it seems like this may not be fully resolved.*

*The bodywork of the car has been repaired at some point, it isn't clear why this was, but there are indications that the car was in an 'accident'.*

*I think it's established that the car has all these faults.*

### **Was the car of satisfactory quality bearing in mind the faults**

*Hyundai said the faults happened too far after the point of sale for them to have been present when the car was supplied to Mr O. But as a starting point Mr O said he reported the steering or tracking problems to the dealership relatively quickly. And even if he hadn't done this, I need to consider whether the car was durable. If parts or systems of the car fail prematurely, this might indicate there was already a problem with the car when it was supplied.*

*I think the engine problems the car had are the most important consideration here. As I've said the car was relatively young and not very travelled when these engine problems began to happen.*

*I appreciate that Mr O had used the car for more than six months before the engine needed a significant repair. But this is too early in the life of the car for the engine fault not to be present, or developing, at the point of sale. I would expect it to be much longer before a car needed significant work to the engine or the engine management system. This is a major component of the car, and it should ordinarily last for the life of it, rather than about two years.*

*I think the engine, and or engine management failure, was premature and meant that the car wasn't durable. So, I don't think the car was of satisfactory quality when it was supplied to Mr O due to these engine, and related engine system problems.*

*Mr O agreed to have the car repaired which isn't unreasonable. But section 32 of the CRA says that:*

*'If the consumer requires the trader to repair or replace the goods, the trader must – (a) do so within a reasonable time and without significant inconvenience to the consumer'.*

*Hyundai feels that it repaired the vehicle within a reasonable time and there wasn't significant inconvenience to Mr O as he was provided with a courtesy car.*

*I don't agree with this, I think it took far too long to repair the car. I don't know why the attempted engine repair took over ten months, but this is far longer than what is reasonable, given the amount that Mr O was paying to Hyundai each month. Hyundai should have offered more suitable alternatives, such as another car or rejection of the vehicle.*

And section 24 of the CRA says that:

*'A consumer who has the right to a price reduction and the final right to reject may only exercise one (not both), and may only do so in one of these situations - after one repair or one replacement, the goods do not conform to the contract;'*

*The CRA doesn't say that there is one repair for each issue, it is one repair overall. I don't think the car conformed to the contract due to the engine faults. And as I've outlined above the car had further engine or engine management problems a short time after the first repair. Repairs have been attempted multiple times because of engine related issues and they may not have been successful even now.*

*So, I think Mr O should now have the right to reject the car due to the engine and related problems. And the finance agreement should be unwound.*

*Mr O has said that the car doesn't track or steer properly and there is some evidence of damage to the bodywork that has been repaired. There may also be a problem with the gearbox now. What he has said is supported by a report from a third party garage that noticed the tracking problem. And an independent report that says some of the bodywork may not be properly aligned and there is evidence of repairs. And these would likely have been present at the time of sale.*

*I haven't fully detailed these ongoing problems here as I think Mr O should have now, and should have had earlier, the right to reject the car due to the time it took to make the repairs. But if there is any doubt that the car hasn't conformed to the contract due to the engine problems, I think it reasonable to say that it hasn't conformed to the contract due to these issues also.*

*Overall, I don't think the car was of satisfactory quality and Mr O should now have the right to reject it. Mr O has reported having problems with the car right from the start and these have been ongoing and significant. I think a refund of 30% of his finance payments is reasonable to compensate him for this.*

*He has also paid for a garage to inspect the car and for a third party reporting company to investigate the car problems. I don't think he should have paid for these, and what he paid should be refunded to him.*

*Mr O has been very inconvenienced by all of this as you would expect. He was kept mobile in a courtesy car for some of the time, but ultimately that wasn't the car he was paying for. As I've said above the car was, on one occasion, with the dealership for over ten months while it tried to work out what was wrong with it. And this repair doesn't seem to have been successful. And he has been left without transport since September 2024. Mr O has outlined the significant problems and upset this has all caused him. And I agree this is the case. I think £500 is reasonable compensation for the distress and inconvenience he experienced.*

## **Developments**

Hyundai, and Mr O, received my provisional decision. Hyundai didn't respond to it.

Mr O generally agreed with what I said. However, he thinks that the payment of £500 for the distress and inconvenience he has suffered is too low. He said he bought the car for his retirement and he incurred additional costs when he could not use it, such as using a private hire taxi service to commute. He would also like the amount he spent on tyres refunded to him.

As agreement hasn't been reached, I've gone on to issue 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.

Whilst I've noted what Mr O said, I think it's reasonable to say that both parties didn't raise any new points after receiving my provisional decision. So, I've reached the same conclusions I did before, for the same reasons.

Mr O thinks that the amount of compensation he should receive, in respect of the distress and inconvenience he was subject to, should be higher than £500. As a starting point I can see Mr O was significantly inconvenienced by all of this and a payment of £500 reflects this.

And I've also said that Mr O should receive back 30% of the finance payments that he paid when he could use the car. And all the repayments should be returned to him when he wasn't able to use the car. Which I think is reasonable and is recognition that he wasn't always able to use the car properly, and at times not at all, and would have incurred some costs when this happened.

And I appreciate that Mr O would have also incurred some costs in running the car and he has noted that he bought tyres for it. But he would always have had some running costs with car ownership, and I don't think he should be refunded for items such as this which would be wear and tear and he would have likely paid in any event.

Overall, I think the compensation is reasonable and I don't think it should be increased.

### **Putting things right**

I uphold this complaint against Hyundai and direct it to:

- End the agreement with nothing further to pay.
- Collect the car at no further cost to Mr O, if Mr O is now in possession of it.
- Refund 30% of the finance payments from the start of the agreement until 5 September 2024 when Mr O was no longer supplied with a hire car.
- Refund all of Mr O's finance repayments from 5 September 2024 until the finance agreement is ended and compensation is paid.
- Refund Mr O's insurance and road tax costs from 5 September 2024 until the finance agreement is ended and compensation is paid (Mr O should supply information about these costs).
- Refund £70 for the cost Mr O incurred in carrying out a mechanical inspection (Mr O should provide an invoice to evidence this).
- Refund the amount Mr O paid for the independent report (Mr O should provide an invoice for this).
- Refund £93.90 for the cost Mr O incurred with the wheel alignment and camber adjustment repairs (shown on the invoice already provided).
- Pay 8% simple yearly interest on all refunded amounts from the date of payment until the date compensation is paid.
- Pay £500 for any distress or inconvenience that's been caused.
- Remove any adverse information from Mr O's credit file in relation to the agreement.

If Hyundai considers that it's required by HM Revenue & Customs to withhold income tax from the interest part of my award, it should tell Mr O how much it's taken off. It should also give Mr O a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

**My final decision**

For the reasons I've explained, I uphold Mr O's complaint.

Hyundai Capital UK Limited should put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 21 March 2025.

Andy Burlinson  
**Ombudsman**