

The complaint

Mr R complains about a used car he acquired using a hire purchase agreement with Toyota Financial Services (UK) PLC. The car suffered an engine failure after Mr R took possession of the car and it now requires a replacement engine.

What happened

Mr R took out a motor finance agreement in January 2023 with Toyota Financial Services to fund the cost of a car. The car was used, approaching six years old and had travelled 50,134 miles when supplied to Mr R. The cost of the car was £15,990 and the majority of the cost was met through the hire purchase agreement, with £1,000 being Mr R's deposit.

Mr R says that around mid-October 2023 the car broke down. It was subsequently established that the vehicle had engine failure and that the engine needed replacing. By that time, the car had travelled 61,411 miles, which was just over 11,000 miles since Mr R had the car.

After some time trying to sort things out with the dealership, Mr R complained to Toyota Financial Services. In summary, it said that as more than six months had passed since Mr R acquired the car it would need further supporting evidence to demonstrate the car was faulty when supplied to him.

Mr R and Toyota Financial Services could not resolve matters and the complaint was referred to our service. It was considered by one of our investigators who found the car was not of satisfactory quality. As the cost of the replacement engine against the value of the car meant the repair would be uneconomical, the investigator said Mr R should be allowed to reject the car. The investigator also recommended a refund of the repayments paid for the period the car was unusable, and a further £250 for the distress and inconvenience caused to Mr R.

Mr R accepted the investigator's view and recommendations. Toyota Financial Services did not. It maintained as Mr R had travelled over 11,000 miles and had the car for nine months without any issues, it thought the car was fit for purpose and there was nothing to indicate the car was faulty at the point of sale.

As the complaint couldn't be resolved informally it's been referred to me for 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.

Where the evidence is incomplete, inconclusive, or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances. And having done so, I have come to the same overall conclusions as the investigator, for what are broadly the same reasons.

Mr R acquired the used car through a hire purchase agreement with Toyota Financial Services. The hire purchase agreement is a regulated consumer credit agreement and because of that our service is able to consider complaints about the agreement. As the provider of the hire purchase agreement Toyota Financial Services is also the supplier of the car to Mr R. As the supplier of the car, Toyota Financial Services is responsible for the quality of the car and The Consumer Rights Act 2015 (CRA) implies terms into the hire purchase agreement requiring the car to be of satisfactory quality.

Exactly what is satisfactory quality will depend on the specific circumstances of any given case. In this instance, where the complaint relates to a car, I think it reasonable that when considering whether the car is of satisfactory quality the car's age and mileage at the time it was supplied are all key considerations.

Section 9 of the CRA 2015 refers to satisfactory quality and notes that the quality of goods includes their state and condition. It goes on to list the following aspects, amongst others, of the quality of goods:

- (a) fitness for all the purposes for which goods of that kind are usually supplied
- (b) appearance and finish
- (c) freedom from minor defects
- (d) safety
- (e) durability

Having considered what the CRA sets out about durability, the expectation here is that goods will last for a reasonable amount of time. Mr R acquired a used car that was approximately six years old and had travelled 50,134 miles. The price of the car was not insignificant and was £15,990. I accept that it is reasonable for a used car of this age and mileage to show signs of wear and tear and this will be reflected in the price of the used car, when compared to how much it would have cost new. But just because the car was used with some mileage, doesn't mean that Toyota Financial Services has no requirements in relation to satisfactory quality, or more specifically durability.

It's clear the car broke down in October 2023 and the diagnostic work done by the breakdown recovery agent showed the car had suffered a significant engine issue and that the engine would need replacing. There appears therefore to be no dispute the car is faulty. Toyota Financial Services is responsible for the quality of the car at the time it is supplied and is not responsible for any further general maintenance costs or issues considered to be fair wear and tear.

In this case I'm more satisfied than not that the failure of the engine is not a fair wear and tear issue, as I'm satisfied it's a key component in the car that should be reasonably expected to last the lifetime of the car. Exactly what the lifetime of a car is will vary depending on a variety of things, and it is difficult to put an exact expectation that would be applicable in every case.

Here, the engine failed and requires replacement at 61,411 miles. Mr R purchased the car for a substantial amount, with a full-service history, suggesting it was well-maintained at the point of sale. And so, I don't consider a reasonable person would expect a car to suffer an engine failure within nine months of purchasing the car, and I think this would be considered a premature failure by a reasonable person. And I am more persuaded than not that this demonstrates the car, or more specifically the engine and its components, were likely not to have been sufficiently durable.

And because of this, I am satisfied that when considering the requirements of the CRA around durability, the car was not sufficiently durable, and consequently, the car was not of

satisfactory quality when supplied to Mr R.

I have considered what Toyota Financial Services has said about an independent inspection report to determine the cause of the engine failure, but like the investigator, I do not consider that necessary. It is clear the engine has failed, and in my view prematurely. Any inspection would also need to likely remove and/or strip the engine to gain access to the internal engine components. This would be costly and take time and is likely to tell us nothing that is not already known, i.e. the engine has failed prematurely.

While I understand what Toyota Financial Services has said about potential servicing issues, it's important to note that the car was supplied with a full-service history. The last service was completed in September 2022, and the vehicle breakdown happened in October 2023, after Mr R had driven just over 11,000 miles since he purchased the car. Given this context, I'm not persuaded that a delay of a few weeks in servicing would have caused a major issue like engine failure.

As I have concluded that the failure is not caused by any lack of servicing by Mr R and as I have found the car was not of satisfactory quality, I will now consider what is required to put things right.

Putting things right

I understand that the car now requires a replacement engine, and this is estimated to cost in the region of £9,000. When Mr R acquired the car, the price was £15,990 and considering the likely value of the car even if the engine was working as it should, I do not think it's reasonable to expect Mr R to wait, suffer further inconvenience getting the car repaired, when those repairs are likely to be uneconomical.

I'm also conscious of the time the car has been left unused and the additional impact this would have had on the car now after a considerable period.

Because of this, I consider it reasonable for Toyota Financial Services to take back the car from Mr R and cancel the hire purchase agreement with nothing further owed. Toyota Financial Services should arrange for the car to be collected and Mr R should not be responsible for any associated costs with taking the car back.

Mr R should receive a refund of the £1,000 deposit payment he made at the outset and as he hasn't been able to use the car since October 2023, any repayments to the hire purchase agreement since October 2023 should also be refunded to Mr R.

Interest, at 8% simple per year, should be added to each of the refunded payments from the date of each payment until the date of settlement.

Finally, Mr R has incurred some distress and inconvenience as a result of being supplied a car that was not of satisfactory quality. This has understandably had an impact on him, and I consider it reasonable that Toyota Financial Services make an additional payment to reflect this. A sum of £250 is reasonable in my view considering the circumstances of this complaint.

If Toyota Financial Services does not settle the complaint within 28 days of Mr R accepting it, interest at the same rate as set out above should be added to the £250.

My final decision

My final decision is that I uphold Mr R's complaint and direct Toyota Financial Services (UK)

PLC to settle the complaint in accordance with what I have set out in the putting things right section above.

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

Farhana Akhtar
Ombudsman