

The complaint

Mr B complains about the quality of a car supplied to him by Toyota Financial Services (UK) PLC ("TFS").

What happened

Mr B acquired a car under a 58 month hire purchase agreement with TFS in November 2023. The car cost around £34,598. Under the agreement, Mr B was required to make 58 payments of £792.43. At the time the car was supplied to Mr B, it was around nine years old and the mileage was 88,000. The car was supplied by a garage I'll refer to as "D".

Prior to agreeing to acquire the car, Mr B raised that the engine management light ("EML") was illuminated during a test drive. He said he wanted this repaired prior to the car being supplied to him. D said the EML could be illuminated due to there being little fuel, the car wasn't warmed up or the oil needed to warm up. Mr B said following receipt of the car in December 2023, the EML illuminated again and the stop start function wouldn't work. Mr B took the car to D in January 2023, who explained there was a water pump fault. The car wasn't repaired until February 2024. Mr B says the EML illuminated again and so, he took the car to an independent garage who said there was an issue with a random misfire. Mr B said he had complained about this before and so, he rejected the car with D in March 2024.

As D declined to accept rejection of the car, Mr B referred his complaint to TFS.

TFS issued its response to Mr B's complaint in May 2024. It said whilst there were faults with the car, these had been repaired at no cost to Mr B and D had offered a courtesy car to Mr B whilst it carried out repairs. As a gesture of goodwill, it offered Mr B £100.

Unhappy with this, Mr B referred a complaint to this service. He said he didn't want the car anymore and he was paying around £800 a month for it. He also said that the shock absorber had gone and the EML was illuminating again.

Our investigator looked into the complaint and said he thought the car supplied to Mr R was of unsatisfactory quality. He said the car had been taken in for repairs on multiple occasions and he was satisfied that Mr B had exercised his right to reject the car. He said Mr R hadn't had use of the car between 15 January 2024 and 22 February 2024, so TFS should refund Mr B any of the rentals he had paid during this period of time, with applicable interest. He also said TFS should pay Mr B £200 for any distress and inconvenience caused.

Mr B agreed. TFS didn't respond.

As TFS didn't respond, the case has been passed to me to decide.

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 evidence is incomplete, inconsistent or contradictory, I reach my view on the balance of probabilities – in other words, what I consider most likely to have happened in light of 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.

Both parties have provided a good deal of evidence, so I've had to summarise things in this decision. The rules of our service allow me to do this, but I want to assure the parties, if I don't mention every single point that's been raised, it's not because I haven't thought about it. I have considered everything that's been said and sent to us. However, I'm going to concentrate here on what I consider is key to reaching a fair and reasonable outcome overall.

What I need to decide in this case is whether the car supplied to Mr B was of satisfactory quality. If I don't think it was, I'll need to think what's fair, if anything, to put things right.

The finance agreement in this case is a regulated hire purchase agreement. So our service is able to consider complaints relating to it. TFS is the supplier of the car under this type of agreement and so is responsible for dealing with a complaint about its quality.

The Consumer Rights Act 2015 ("CRA") covers hire purchase agreements. Under a hire purchase agreement, there are implied conditions that the goods supplied will be of satisfactory quality.

Mr B acquired a car that was used – so there would be different expectations compared to a new car. Having said that, the car's condition at the point of supply, should have met the standard a reasonable person would consider satisfactory, taking into account its age, mileage and price. The CRA says the aspects of the quality of the goods includes their general state and condition alongside other things such as their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability.

In this case, Mr B reported the EML appeared and the stop start function wasn't working around a week after the car was supplied to him. An email chain shows that D acknowledged that the EML was appearing before the car was supplied to Mr B. Following this there was a problem with a water pump and reoccurring problems with the start stop function and the EML. An independent garage, who I'll refer to as "F", carried out an inspection and confirmed that the EML was displayed, there were random misfire fault codes and lambda fault codes stored on the car. The rear driver's shock absorber had also collapsed.

Having reviewed this, I'm satisfied that there does appear to be faults with the car that was supplied to Mr B as F has independently confirmed this. I now need to consider whether these faults make the car of unsatisfactory quality.

I've seen a copy of the email correspondence between Mr B and D. This confirms that before Mr B was supplied the car, he raised the issue with the EML being illuminated. D told Mr B the EML may be appearing because the car had little fuel, it wasn't warmed up or the oil needed to warm up. When the EML appeared after Mr B collected the car, he says he was told this was due to a water pump fault and that the stop start function wouldn't work if the EML appeared. He was also told some of the faulty coil packs were replaced but not all of them. There is no supporting information such as job sheets to show any of the work that was carried out or the mileage at the time the work was carried out.

I contacted F to understand its report better. It said it would be hard to say that the misfire issue was normal given the age and mileage of the car. This is because it depended on how the car had been maintained and if it had been serviced correctly. It also said that there were fault codes stored with the lambda probe, which is the emissions monitor. F's report confirms one of the shock absorbers had also collapsed. The mileage at the time of F's report in June 2024 was recorded as 91,959.

Having thought about all of this carefully, when Mr B acquired the car, it was around nine years old and the mileage was recorded as 88,000. There is no dispute by D that Mr B

returned the car to it for repairs shortly after acquiring it and the month after that. Following F's report in June 2024, when Mr B had the car for six months, the shock absorber collapsed, the EML continued to appear, there was a misfire and fault codes related to the emissions monitor appeared. In six months, Mr B travelled less than 4,000 miles in the car.

Mr B was paying around £800 per month for the car. Although I take into account the age and mileage of the car at the time it was supplied, given the high cost of the monthly repayments, I think Mr B was reasonably entitled to expect that the car would last a reasonable amount of time without any significant problems. However, the car was repaired on a number of occasions by D before and after it was supplied to Mr B and despite this, F's report highlighted outstanding repairs required to the car totalling around £2,000.

There is no supporting information to suggest that Mr B didn't maintain the car as he was expected to in the six months he had the car and the mileage travelled by Mr B is minimal. So, I consider that the faults with the car were likely present or developing at the time the car was supplied to Mr B by D. I don't consider that the EML should appear before and after repairs have been carried out and I don't think it should be an ongoing problem with a car, which it has been in this case. The engine misfire could lead to the engine failing and the collapse of the rear shock absorber impacts the safety of the car. I don't think it's reasonable that the car suffered all these issues within the short time Mr B had the car and with the minimal mileage he completed. It follows that I don't think the car was of satisfactory quality when it was supplied to Mr B.

I've gone on to think about what TFS needs to do to put things right.

D accepts that it has repaired the car on a number of occasions. Email correspondence supports this. Mr B requested to reject the car in March 2024, which was three months after the car was supplied to him. As D has had chances to repair the car unsuccessfully, I'm satisfied that Mr B is entitled to now reject the car and that TFS should collect the car at no further cost to Mr B.

There doesn't seem to be any dispute that the car was taken in for repairs to D for around five weeks between 15 January 2024 and 22 February 2024. Following this Mr B took the car to D and said he wanted to reject it and the car remained with D for a number of weeks. Mr B says he collected the car after TFS issued its final response letter. The car is currently in Mr B's possession. Mr B has said the battery is flat on the car and he hasn't used it. The last odometer reading is from June 2024 which shows a reading of 91,958, which is consistent with F's report earlier that month.

Mr B has had significant periods where he hasn't been able to use the car. However, due to the lack of supporting information, it's unclear when Mr B had the car and when he didn't have use of the car. In light of this, I think the fairest way to put things right is for TFS to be able to charge Mr B one monthly rental for around every 1,000 miles he travelled in the car. The odometer reading Mr B has provided us shows that he completed around 4,000 miles, so TFS should be able to retain four monthly payments. If after the car is collected it transpires Mr B travelled in excess of 4,000 miles, TFS will be entitled to deduct one further monthly payment for each 1,000 miles Mr B travelled in the car.

I've also considered the impact of Mr B being without a car whilst it was being repaired and the ongoing problems he has detailed. Mr B has said he has had to pay a significant amount each month whilst he hasn't had use of the car, this car was his only mode of transport and he has been inconvenienced by not having access to it. He has also had to take the car back to D on numerous occasions and has had extensive communication with D to try and resolve the issue.

Having considered the impact Mr B has detailed, I'm satisfied he was caused inconvenience and distress as a result of the faults with the car. In light of all of this and the impact caused to Mr B, I think that TFS should pay Mr B £200 to reflect the distress and inconvenience caused.

My final decision

My final decision is that I uphold Mr B's complaint. Toyota Financial Services (UK) PLC should do the following to put things right:

- end the agreement with nothing further to pay;
- collect the car (if this has not been done already) at no further cost to Mr B;
- only retain four monthly payments paid by Mr B. TFS should refund any monthly payments in excess of this, unless Mr B has travelled in excess of 4,000 miles and if so, TFS will be entitled to retain one monthly payment for each additional 1,000 miles Mr B has completed over 4,000 miles;
- pay 8% simple yearly interest on all refunded amounts from the date of payment until the date;*
- pay £200 for any distress and inconvenience that's been caused due to the fault with the car; and
- amend any adverse information reported to credit reference agencies about this hire purchase agreement.

*If Toyota Financial Services (UK) PLC considers that it is required by HM Revenue & Customs to withhold income tax from that interest, it should tell Mr B how much it's taken off. It should also give Mr B a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

**If Toyota Financial Services (UK) PLC does not pay this £200 compensation for inconvenience and distress within 28 days of the date on which we tell it Mr B accepts my final decision then it must also pay 8% simple yearly interest on this from the date of my final decision to the date of payment.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 9 December 2024.

Sonia Ahmed
Ombudsman