

The complaint

Mr R is unhappy that a car supplied to him under a conditional sale agreement with Toyota Financial Services (UK) PLC ("TFS") was of an unsatisfactory quality.

When I refer to what Mr R has said and what TFS has said, it should also be taken to include things said on their behalf.

What happened

The details of this complaint have been set out on three occasions and are well-known to both parties. So, I've summarised what I think are the key events.

In May 2023, Mr R was supplied with a used car through a conditional sale agreement with TFS. The cash price of the car was £26,973, and Mr R paid a cash deposit of £250 and part exchanged his car for £9,000. The balance, including the charge for credit, was £31,810 payable in 60 equal instalments of £376 per month. At the time of supply, the car was a little under six years old and had done 48,893 miles (figure obtained from the MOT certificate).

Mr R said the windscreen/sunroof leaked, causing electrical problems. Although he'd had a one-year warranty, the dealership from which he bought the car had been taken over. Therefore, Mr R said the warranty was no longer available to him. He contacted another branch of the original dealership on a few occasions but only received acknowledgements.

In December 2023, Mr R paid for a diagnostic test which confirmed that there was a leak that had affected the electricals. The report advised him not to drive the car. So Mr R complained to TFS about the quality of the car which he said had been unsatisfactory from the date of supply. He asked TFS to fix the car under the warranty; exchange the car, or put him back in the position he'd have been in if he hadn't bought the car. He also asked for compensation for the inconvenience.

Mr R gave TFS some time to look into his complaint, which he then brought to us. Four months later, TFS issued its final response. TFS said he hadn't given the new owner of the dealership an opportunity to repair the car, so it didn't uphold his complaint. It offered £50 as a gesture of goodwill for the delayed response.

Mr R wasn't happy with TFS's response so our investigator looked into his complaint. Based on the evidence, the majority of which Mr R provided, our investigator didn't think TFS had treated him fairly. Our investigator said it was clear that Mr R had reported the fault within three months of supply to another branch of the original dealership, and it had assured him it was looking into the matter. In the absence of any evidence of a meaningful response from the dealership, or an offer to investigate the fault, our investigator thought it was reasonable that Mr R then contacted TFS. To put things right, our investigator thought TFS should:

- End the agreement with nothing further to pay.
- Collect the car at no cost to Mr R.
- Refund the deposit and part exchange contribution of £9,250.
- Refund all rental payments made from 8 December 2023.

- Pay interest on the refunded payments.
- Pay £250 compensation for the distress and inconvenience caused.
- Remove any adverse credit information in relation to this agreement.

TFS didn't respond.

Mr R agreed in general, but he asked for a refund of the costs he'd incurred for the car and further consideration of the compensation payment which he thought was too little.

Our investigator looked into the additional points Mr R made and agreed that, in addition to her previous recommendation, the following costs should be refunded:

- the payments Mr R had made towards his service plan
- the cost of the diagnostic test

Our investigator didn't agree that the car mats, insurance, tax and fuel cost should be refunded because they were expected costs of running a car. She also thought the compensation was reasonable and didn't propose an increase.

Mr R accepted the investigator's response about the costs, but he remained unhappy with the compensation. He described the difficulties he'd experienced because of the faulty car and asked for further consideration. So the complaint was 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.

Having done so, I've reached the same overall conclusions as the investigator, and for broadly the same reasons. I haven't commented on every piece of evidence or every specific point where I don't believe it affected what I think is the right outcome. Some evidence is incomplete, so I've reached my view based on 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. Mr R was supplied with a car under a conditional sale agreement. As this is a regulated consumer credit agreement, I'm able to investigate a complaint about it.

The Consumer Rights Act 2015 (CRA) covers agreements such as the one Mr R entered into. Under this agreement, there is an implied term that the goods supplied will be of satisfactory quality. The CRA says that goods will be considered of satisfactory quality where they meet the standard that a reasonable person would consider satisfactory – taking into account the description of the goods, the price paid, and other relevant circumstances. I think in this case those relevant circumstances include, but are not limited to, the age and mileage of the car and the cash price. The CRA says the quality of the goods includes their general state and condition, as well as other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability.

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

TFS didn't provide a case file in response to our request, nor did it provide a response to our investigator's view. Therefore, the evidence is limited. However, Mr R provided a copy of TFS's response to his complaint and other correspondence with the dealership, so I have been able to consider its side of things.

Repair

In its response to Mr R's complaint, TFS didn't uphold it because he'd not given the new dealer a chance to resolve things. I think it's referring to the single chance at repair.

Section 24(5) of the CRA says "*a consumer who has ... the right to reject may only exercise [this] and may only do so in one of these situations – (a) after one repair or replacement, the goods do not conform to contract.*" This is known as the single chance at repair.

Mr R provided copies of emails which evidence the following:

- August 2023 – A refund request for the warranty/service plan because the car was showing faults and the new dealership told him it wouldn't honour it.
- September 2023 – Further contact regarding the warranty/service plan.
- December 2023 – Diagnostics report showing the car fault was due to a leaking screen causing electrical failure.
- December 2023 – A complaint to TFS and its acknowledgement.
- January 2024 – Several communications with another branch of the dealership in which it confirmed it was the dedicated team dealing with contact relating to the original dealership.

I also note that these emails refer to Mr R's other attempts to identify a party responsible for repairing his car.

While TFS said the new dealership hadn't heard anything from Mr R, on balance, I'm satisfied that the evidence shows Mr R tried to have his car repaired on multiple occasions from at least as early as three months after supply.

Section 24(5) of the CRA also says "*(c) the consumer has required the trader to repair or replace the goods, but the trader is in breach of the requirement of section 23(2)(a) to do so within a reasonable time and without significant inconvenience to the consumer.*"

The first offer of repair was within TFS's final response to Mr R's complaint. It said he should "*contact [the new dealership] directly as they are willing to investigate the concerns you have raised*". TFS made this offer in June 2024 which was ten months after Mr R first reported a fault, and six months after he raised the matter directly with TFS.

Given that Mr R had made TFS aware he hadn't been able to use the car for some of that time, and that he was still expected to initiate contact with the dealership, I think it's fair to conclude that an offer of repair was not made within a reasonable time or without inconvenience.

So, based on the available evidence, I'm satisfied that TFS was afforded a single chance at repair.

Fault

The presence of the fault is neither disputed nor undisputed. That's because there has been no attempt to repair the car, as stated above, and TFS hasn't arranged an independent inspection.

Mr R paid for a diagnostic test carried out at the car manufacturer's repair centre. I've seen the report which confirms the screen leak and electronics failure as a result of that leak. It also advises against driving the car. The repair cost is quoted as £3,307.80 which excludes the cost of replacement tyres.

In the absence of any contradictory evidence from TFS, and the fact that this diagnostic test was completed by a representative of the car's manufacturer, I'm satisfied that Mr R has demonstrated there was a fault with his car. And, as it was first reported within three months of supply, I think it's reasonable to conclude that it was present at the time of supply.

Putting things right

As I'm persuaded by the evidence that the fault was present at the time of supply, and TFS had an opportunity to repair, I'm satisfied that Mr R has the right to reject the car. And I agree with the recommendations our investigator proposed.

Additional costs

Looking specifically at the costs Mr R incurred, it's reasonable to require TFS to pay for the diagnostic test and refund any payments he made for the service plan. That's because he didn't have use of the service plan and Mr R had to pay for the test to demonstrate the fault so he could further his complaint. However, I don't think it's reasonable to include costs for any consumables, and Mr R accepted this. Mr R didn't have the repairs done, so there's no payment to refund.

Compensation

It's clear from the evidence that Mr R has been inconvenienced. He has tried on many occasions to seek assistance with the warranty, returning the car, and trying to have his car fault looked at, but without any meaningful responses.

I've considered the information Mr R provided about the distress and inconvenience this matter has caused. He described being without a car during a difficult time, needing to buy a new car at a higher interest rate, and delaying taking out a mortgage because he'd stopped paying for his car due to the lack of contact from TFS.

I can understand Mr R's disappointment with the £250 compensation proposed. However, I should point out that the refund of all payments from the date the car was deemed unsatisfactory, along with a refund of his deposit, addresses the impaired usage of the car. While Mr R may have been affected by the interest rate on other financial products, whether or not he took them out, there's no evidence that TFS's actions contributed to any other finance provider's decision.

Overall, I don't doubt that this matter has caused Mr R distress, but I'm satisfied that £250 compensation is in line with our guidelines, and fair and reasonable in the circumstances.

My final decision

For the reasons explained, I uphold Mr R's complaint and Toyota Financial Services (UK) PLC must:

- End the agreement with nothing further to pay.
- Collect the car at no cost to Mr R if it has not already done so.
- Refund the deposit and part exchange contribution of £9,250.
- Refund all rental payments made from 8 December 2023 which is the date the car was deemed to be of unsatisfactory quality.
- Refund the payments Mr R made towards his service plan.
- Reimburse Mr R £210 which is the cost of the diagnostics test.
- Apply 8% simple yearly interest on the refunds, calculated from the date Mr R made the payment to the date of the refund.
- Pay Mr R an additional £250 to compensate him for the trouble and inconvenience caused by being supplied with a car that wasn't of a satisfactory quality.
- Remove any adverse credit information in relation to this agreement.

*If Toyota Financial Services (UK) PLC considers that tax should be deducted from the interest element of my award, it should provide Mr R with a certificate showing how much it has taken off so he can reclaim that amount, if he is eligible to do so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 24 February 2025.

Debra Vaughan
Ombudsman