

## The complaint

Mr G complains about the quality of a van he acquired through a hire purchase agreement with Oodle Financial Services Limited ('Oodle'). He says that there are problems with the van that make it unsuitable for him to drive and that Oodle will not repair the fault as it says he has driven too many miles. Mr G says that if he was made aware of this mileage restriction, or that the van would not be suitable for the work he was doing, he wouldn't have gone ahead with the hire purchase.

## What happened

In February 2024 Mr G acquired a van. The purchase price was £12,437.64 and Mr G borrowed £11,437.64 using a hire purchase agreement. He was due to make an initial payment of £457.69, then 34 payments of £407.69 and a final payment of £457.69. The total amount that Mr G would pay under the agreement was £15,776.84.

The van was around nine years old at the time of sale and had been driven 95,612 miles. Mr G was a courier, and it was explained to both the van dealer and the finance company that he would be using the van mainly for business purposes.

Mr G experienced problems with the van just over two weeks after he started using it and he took it to a local garage. This garage told Mr G that the turbocharger on the van needed replacing and it provided an estimate to do this of around £1,850. Mr G had driven 2044 miles at this point.

Mr G complained to Oodle saying that the van turbo had failed a short time after he purchased it. And so, he wanted to reject the vehicle and unwind the finance agreement.

Oodle considered this complaint, but it didn't uphold it. It said that Mr G had driven over 2,000 miles in a short period of time, and he used the van mostly for business purposes as he was a courier. It said that Mr G had agreed to inspect the vehicle and the terms of the finance agreement said that Oodle would not be responsible for the quality of the vehicle or whether it was fit for its intended business purpose. It said the Consumer Rights Act 2015 ('CRA') did not apply as Mr G was a business customer.

Mr G didn't agree with this and brought his complaint to the Financial Ombudsman Service.

Our Investigator upheld Mr G's complaint. He said that he didn't think a reasonable person would expect a van, that cost around £12,500, to experience a turbo failure around two weeks after the purchase, even when considering that Mr G had driven it for above average miles. So, he wasn't persuaded that the van was of satisfactory quality when it was supplied as it wasn't reasonably durable.

He agreed that, as the complaint should not be considered with reference to the CRA, Mr G did not have a 30 day right to reject the faulty vehicle. But, as Oodle did not repair the van in a reasonable amount of time Mr G should be able to reject it in any event.

Oodle didn't agree with the Investigator. They said that the dealer could get the van repaired for around £700 and it would pay £500 of this due to the error. But Mr G had declined this and he refused to take it back to the supplying dealer. And he shouldn't have the right to reject the van as he had driven a lot of miles in the two weeks he had it. He was aware he was buying a high mileage van at a significant discount to a new vehicle, so it would have higher maintenance costs.

Our investigator didn't think that Mr G should have had to contribute to the repair costs as the vehicle wasn't of satisfactory quality. Even though it has covered a lot of miles in the two weeks he used it, he wouldn't have expected this level of repair so soon.

There was some further correspondence, but no new issues were raised. Because Oodle didn't agree, this matter has been passed to me 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.

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 to have been good industry practice at the relevant time.

The agreement in this case is a regulated hire purchase agreement. As such, this service is able to consider complaints relating to it. Oodle is also the supplier of the goods under this type of agreement, and responsible for a complaint about their quality.

But I agree that the CRA doesn't apply here, given Mr G acquired the van mainly for business use he doesn't meet the definition of a consumer under that legislation.

The investigator referred to The Sale of Goods Act 1979 as being the relevant legislation. I don't think that legislation applies either but, ultimately, it doesn't make much difference. I'm satisfied the Supply of Goods (Implied Terms) Act 1973 applies in these circumstances and this legislation provides broadly similar protection - meaning Oodle was required to ensure that this van was of satisfactory quality when Mr G got it.

The level of quality that's considered satisfactory varies according to individual circumstances. It's generally considered reasonable, in the case of a used vehicle, to take the cost, age and mileage at the point of supply into account.

This van was first registered in February 2014, it had about 95,500 miles on the clock when Mr G got it. The cash price was about £12,500 at that time. I think a reasonable person would accept that such a vehicle would probably have some parts that are worn and would need replacing sooner or later – which is reflected in the lower price paid in comparison to a new vehicle.

But there's also a reasonable expectation that a vehicle will be relatively durable - taking into account its age, price and mileage at the outset. So even though the vehicle wasn't new Mr G should have been able to use it for a reasonable period of time before it needed significant work.

### **What was the fault with the van?**

I've seen an estimate from a garage that says that the turbo has failed on the van. There are some other problems with the manifold breather pipe and a knock from the engine. But these seem to be related to the turbo failure.

From the correspondence I've seen between the dealership that supplied the van, Oodle and Mr G, Oodle has accepted that there was a fault with the turbo. I note that it offered to pay for part of the repairs that are needed. So, I think it's reasonable to say that the van has a fault as the turbo on it has failed. And this fault has led to Mr G being unable to use the van and making this complaint.

### **Was the van of satisfactory quality bearing in mind the fault?**

As outlined above the van that was supplied was around nine years old and had travelled around 95,500 miles. And this was reflected in the price of it. So, a reasonable person would expect that it would need more maintenance and repair than, say, a vehicle that was brand new.

But I need to consider whether the van was durable. If parts or systems of the van fail prematurely, this might indicate there was already a problem with the van when it was supplied. And so, it wouldn't be of satisfactory quality if it was sold if there was already a problem with it.

Oodle has consistently said that, in summary, Mr G was a 'high mileage' business user. But whilst Mr G did cover a lot of miles in the time that he had used the van, this was only over two weeks. And I don't think that 2000 miles is a large amount to have driven the van before this fault. I appreciate that had Mr G continued to use the van in the same way he would have covered a lot of miles over time. But he didn't get the opportunity to do this. And so, I don't think it's right to view this problem as being related to the amount of miles Mr G covered in the short time he used the van.

The van failed a very short time after it was supplied to Mr G. I agree that a reasonable person would have expected a van which cost around £12,500 to have lasted longer, both in usage time and miles driven, before needing a significant repair.

I think it's likely the fault was present or developing when Mr G started to use the van. So, I don't think that the van was reasonably durable when supplied to Mr G and so I don't think it was of satisfactory quality.

When Mr G found out about the problems with the van he told Oodle that he wanted to return it. As I've said above Mr G isn't a 'consumer' under the CRA as he bought the van for business purposes. So, he doesn't have the automatic right of return within 30 days he may have had under the CRA. So Oodle didn't agree that he should be able to reject the vehicle.

But I think that Oodle should have accepted that the van wasn't of satisfactory quality and taken steps to put this right. And again, I can see in the correspondence it has to some degree accepted that the van needed a repair, and it did agree to fund this in part. I think it should have done more here to put this right.

Mr G didn't feel that he should pay for any of the repairs, or for such things as transporting the van to the dealership to make the repairs. As I think the van wasn't of satisfactory quality Oodle should have taken ownership of the problem and rectified it for Mr G. I don't think that Mr G needed to take the van back to the dealership himself or pay for any of the repairs.

As it didn't do this, and as some time has passed since the van became unusable in March 2024, I think that Mr G should now be able to reject the van.

I note that Mr G has been very inconvenienced by this. He bought the van for his work and when he couldn't use it he faced problems earning a living. And this has led to some extra costs such as hiring a van and he's talked about problems paying his bills. I think all of this has caused him a significant amount of worry. So, I think the £300 suggested by our Investigator for the distress and inconvenience he experienced is fair.

### **Putting things right**

Having thought about everything above along with what is fair and reasonable in the circumstances I uphold this complaint and direct Oodle to:

- end the agreement with nothing further to pay;
- collect the van (if this has not been done already) at no further cost to Mr G;
- refund Mr G's deposit/part exchange contribution of £1,000;
- refund all payments for the period from 13 March 2024 to the date of settlement as he reasonably stopped using the van at this point, if applicable;
- pay 8% simple yearly interest on all refunded amounts from the date of payment until the date of settlement;
- pay £300 for any distress or inconvenience that's been caused due to the faulty goods;
- remove any adverse information from Mr G's credit file in relation to the agreement.

If Oodle considers that it's required by HM Revenue & Customs to withhold income tax from the interest part of my award, it should tell Mr G how much it's taken off. It should also give Mr G 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 G's complaint.

Oodle Financial Services 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 G to accept or reject my decision before 6 December 2024.

Andy Burlinson  
**Ombudsman**