

The complaint

Mr V complains that a car that was supplied to him under a conditional sale agreement with Hyundai Capital UK Limited wasn't of satisfactory quality. He's being represented in his complaint by a legal adviser.

What happened

A new car was supplied to Mr V under a conditional sale agreement with Hyundai Capital that he electronically signed in June 2023. The price of the car was £40,250, Mr V made an advance payment of £12,750 and he agreed to make a payment of £230.72, 23 monthly payments of £230.62 and a final payment of £21,965.02 to Hyundai Capital.

Mr V says that the car's brakes, indicator lights and speedometer stopped working on 9 September 2023 so he contacted the dealer and an appointment was made for the faults to be investigated on 18 September 2023. The dealer returned the car to Mr V but the same fault reoccurred on 28 September 2023 and Mr V called a roadside assistance service. The car was taken back to the dealer, where it has remained since then, and the faults were investigated in November 2023.

Mr V's representative, on behalf of Mr V, complained to Hyundai Capital in March 2024 and said that Mr V wanted a replacement car or a full refund. It partially upheld Mr V's complaint. It said that the car had been repaired and was ready to collect but it offered to pay Mr V £578.10 for his loss of use of the car and £250 for the inconvenience caused during the repair process.

Mr V didn't accept that offer and complained to this service. His complaint was looked at by one of this service's investigators who, having considered everything, didn't think that the car was of satisfactory quality when it was supplied and he said that the faults weren't repaired within a reasonable period of time. He recommended that Hyundai Capital should: end the finance agreement; refund Mr V's deposit contribution of £12,750 and his monthly rentals from 29 September 2023; refund Mr V's car insurance and road fund tax (once evidenced) on a pro-rata basis; pay Mr V £350 for any distress and inconvenience that's been caused; pay interest on the refunded amounts; and remove any adverse information from Mr V's credit file in relation to the agreement.

Hyundai Capital hasn't accepted the investigator's recommendation so I've been asked to issue a decision on this complaint. Hyundai Capital says that the roadside assistance service's report doesn't state what the fault was and the fault with the diesel particulate filter could be down to how the car is being maintained, as the filters must be blown out by driving at a higher speed for a considerable amount of time, and if that isn't being done it would cause the filter to be blocked.

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.

Hyundai Capital, as the supplier of the car, was responsible for ensuring that it was of satisfactory quality when it was supplied to Mr V. Whether or not it was of satisfactory quality at that time will depend on a number of factors, including the age and mileage of the car and the price that was paid for it. The car that was supplied to Mr V was a new car with a price of £40,250 and I consider that it was reasonable for him to expect that it would be free from even minor defects.

Mr V has described the issues with the car that occurred on 9 September 2023, about ten weeks after the car had been supplied to him, and he's provided a photo of the car's dashboard with a warning that says: *"Stop safely and check brake system"*; and the car's mileage is shown on that photo as 527 miles. He contacted the dealer about those issues and an appointment was made for the faults to be investigated on 18 September 2023. The dealer's job card says: *"Investigate customer complaint of check brakes warning light on dash"*; and: *"Vehicle Health Check"*; but doesn't provide any information about the work that was done on the car.

The car was returned to Mr V and he says that the dealer assured him that the faults wouldn't reoccur. Mr V says that the same faults reoccurred on 28 September 2023 and a roadside assistance service attended. The breakdown report doesn't identify the issues with the car but says: *"Followed you to [dealer]. Vehicle has been to the garage for the same reason a few weeks ago. Same issue. Tried to scan but unable to clear. Followed member to dealer. Engine Oil Level Ok. Coolant Level Ok"*. The car's mileage is recorded on the report as 590 miles.

The car has remained with the dealer since 28 September 2023. The faults with the car were investigated in November 2023 and the dealer said: *"Customer concern of brake warning light on dash not confirmed. Exhaust filter light on dash and regen has been carried out. Software updates are all up to date. Regen light could come up again if mileage is low. Give to customer to monitor and report if issue rises again"*.

Mr V says that there were issues with the car on 9 September, those issues reoccurred on 28 September and the dealer says that the car's exhaust filter light has come on. The car that was supplied to Mr V was a new car costing £40,250 and I consider that the issues that Mr V has experienced are enough for me to conclude that it's more than likely that the car wasn't of satisfactory quality when it was supplied to him. I don't consider that Hyundai Capital has provided enough evidence to show that the car was of satisfactory quality when it was supplied to Mr V. I find that it would be fair and reasonable in these circumstances for Hyundai Capital to allow Mr V to reject the car. I've set out below the actions that I consider that it should take.

Putting things right

I find that Hyundai Capital should end the conditional sale agreement at no further cost to Mr V. The agreement shows that Mr V made an advance payment of £12,750 for the car. I find that it would be fair and reasonable for it to refund that advance payment to him, with interest.

Mr V was able to use the car until the first fault occurred on 9 September 2023 and I consider that it's fair and reasonable that he should pay for that use. The car was taken to the dealer on 28 September and has remained there since then. I consider that it would be fair and reasonable for Hyundai Capital to refund to Mr V the monthly payments that he's made under the agreement for the period from 29 September 2023, with interest. I also consider that it would be fair and reasonable for Hyundai Capital to reimburse Mr V for the amount that he's paid to insure the car and for road tax on a pro-rata basis from 29

September 2023, upon receipt by it of evidence of those amounts, and that it should pay interest on those amounts.

These events have clearly caused distress and inconvenience for Mr V. I find that it would also be fair and reasonable for Hyundai Capital to pay him £350 to compensate him for that distress and inconvenience. The investigator recommended that Hyundai Capital should remove any adverse information from Mr V's credit file in relation to the agreement. I've seen no evidence to show that it has recorded any adverse information on Mr V's credit file, but if it has done so, I consider that it would be fair and reasonable for it to remove that information.

My final decision

My decision is that I uphold Mr V's complaint and I order Hyundai Capital UK Limited to:

1. End the conditional sale agreement at no further cost to Mr V.
2. Refund to Mr V the advance payment that he made for the car.
3. Refund to Mr V the monthly payments that he's made under the agreement for the period from 29 September 2023.
4. Reimburse Mr V for the amount that he's paid to insure the car and for road tax, on a pro-rata basis from 29 September 2023, upon receipt by it of evidence of those amounts.
5. Pay interest on the amounts at 2, 3 and 4 above at an annual rate of 8% simple from the date of each payment to the date of settlement.
6. Pay £350 to Mr V to compensate him for the distress and inconvenience that he's been caused.
7. Remove any adverse information about the conditional sale agreement that it's recorded on Mr V's credit file.

HM Revenue & Customs requires Hyundai Capital to deduct tax from the interest payment referred to above. Hyundai Capital must give Mr V a certificate showing how much tax it's deducted if he asks it for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr V to accept or reject my decision before 13 February 2025.

Jarrold Hastings
Ombudsman