

## The complaint

Mr P complains about the quality of a new car he acquired through a fixed sum loan with Hyundai Capital UK Limited, trading as Kia Finance ('Kia Finance'). Mr P says that he had significant problems with the car over the time he has used it and would like compensation for this.

## What happened

Mr P's complaint is about the quality of a new car he acquired in January 2021. Mr P acquired the car using a fixed sum loan agreement that was also started in January 2021. The vehicle had a retail price of £30,870. Mr P paid a £4,500 deposit meaning £26,370 was financed. This agreement was to be repaid through 36 monthly instalments of £429.64 and then a final instalment of £13,895.95. I understand the finance is now fully repaid and Mr P owns the car.

Below is a summary of the issues complained about by Mr P and the investigation and repair work that has been carried out by the dealership, alongside what has happened in respect of the complaint.

In June or July 2022, the car developed a fault with the exhaust. The dealership repaired this at no cost to Mr P, but due to a shortage of parts, this wasn't finalised until November 2022.

On receipt of the car, it broke down again straight away and it was recovered to the dealership. The recovery company report says that it suspected the '*crank pulley was loose and damaged woodruff key*'. The car had covered 21,000 miles at this time.

The dealership has said that it carried out a major engine repair due to the 'well known hybrid crank repair'. Mr P said he was able to use the car from February 2023.

Mr P said he had the car serviced in May 2023 and no issues were found. But shortly after this, still in May 2023, the car broke down again. The car now needed a repair to the turbocharger and was taken back to the dealership for this repair.

The car was returned to Mr P in July 2023, but he said an engine light came on a few days later and it was returned to the garage. I understand the catalytic converter had become damaged, and this may have been connected to the turbo failure. This has now been replaced and the car was returned to Mr P in May 2024. I understand the car is now fully repaired.

In September 2023, Mr P was again planning to use his car for an overseas trip. He couldn't use the courtesy car he had been provided to make this trip and he needed to hire a car at a cost of £1,147.69.

Kia Finance, and the dealership, didn't initially agree to make the repairs to the car at no cost to Mr P as he hadn't had the car serviced within the specified times in the warranty. But after the involvement of the Motor Trades Ombudsman in January 2024, it agreed the repairs would be made without cost to Mr P.

Mr P complained to Kia Finance saying that he was paying for a car that he couldn't use due to the faults with it. And the courtesy car had a much lower specification and would have been much less to lease.

Kia Finance considered this complaint, and it didn't uphold it. It said that the delays in the repairs were due to global supply chain problems, and it also said that as the faults occurred later than six months from when Mr P acquired the car then it would need to be shown that they were present or developing at the time of sale. It didn't think this was the case and so it rejected his complaint.

Mr P didn't agree with this and brought his to the Financial Ombudsman Service. Our Investigator upheld Mr P's complaint. She said that, due to the faults the car had, it wasn't likely to be of satisfactory quality. And this wasn't affected by the late servicing. She thought that Mr P should receive compensation of a payment of his hire car costs and a distress and inconvenience payment.

Kia Finance didn't agree with the Investigator. The dealership, on behalf of Kia finance, said that Mr P had not serviced the vehicle correctly and this could have contributed to the problems with the car, for example the turbo needed high quality oil. But in any event Mr P was provided with a courtesy car and the repairs have been made free of charge to him. The courtesy car cost £380 per month.

There was some further correspondence, but no new issues were raised. Because Kia Finance 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 was good industry practice at the relevant time.

The agreement in this case is a regulated fixed sum loan agreement – so we can consider a complaint relating to it. Kia Finance as the supplier of the goods under this type of agreement is responsible for a complaint about their quality.

The Consumer Rights Act 2015 ('CRA') is relevant to this complaint. It says that under a contract to supply goods, there is an implied term that 'the quality of the goods is satisfactory'.

To be considered 'satisfactory', the goods would need to meet the standard that a reasonable person would consider satisfactory – taking into account any description of the goods, the price and all the other relevant circumstances. So it seems likely that in a case involving a car, the other relevant circumstances a court would take into account might include things like the age and mileage at the time of sale and the car's history.

The CRA quality of the goods includes their general state and condition and other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability can be aspects of the quality of goods.

Here, the car was acquired new. So, I think it's fair to say that a reasonable person would expect the level of quality to be higher than a second-hand, more road-worn car and that it could be used – free from defects – for a considerable period of time.

As I've outlined above there has been a series of faults with the car that have involved repairs to the exhaust, the crank pulley, the turbo and the catalytic converter. There isn't any dispute that the car has had these faults and that it has needed the repairs I've outlined above.

I've thought about whether the car was of satisfactory quality bearing in mind these faults.

All the above issues concern parts, or systems, of the car that should ordinarily last a long time and be durable. But the exhaust developed a fault very early on, that is when the car was around a year and a half old, and the crank pulley not long after this. And I would have expected a turbo and a catalytic converter to last reasonably close to the life of the car itself, or around 100,000 miles. So, I think all these faults were very premature and meant the car wasn't durable.

And this is reflected in the time that the car has spent being repaired. I don't know exactly how long this all took. But the information I have, which seems to be reasonably accurate, is that this was around a year and a half over the approximately four years in which Mr P owned the car up to the final point of repair in May 2024. This is far too long for a new car to be unavailable to use as it has broken down.

Overall, because of these faults, and the repairs that were needed to the car, I don't think it was of satisfactory quality.

Kia Finance, and the dealership, have arranged to have the car repaired and I understand these repairs have now been successful. Where goods are not of satisfactory quality a repair is a reasonable way to put things right, and Mr P did agree to this each time. So, I don't think any further action is needed to the car itself.

The remaining dispute is about whether Mr P should receive further compensation. I've thought about this below.

Mr P needed to hire a car to avoid cancelling a holiday he had planned. Mr P was paying for a car that ordinarily he would have been able to use on his holiday and he shouldn't have had to pay extra to still do this. I agree that the costs of this should be refunded to him.

And Mr P was very inconvenienced by all of this, and it must have been very frustrating for him to have to take his car, or have it recovered to, the garage several times. Mr P was without the car he was paying for long periods of time. He was kept mobile, but this was not the car he was paying for. And added to this under the CRA repairs should be made within a reasonable time frame and without significant inconvenience to a consumer. Given the cumulative time the repairs took to make, I don't think this happened here.

So, I agree, that the £500 recommended by our Investigator is reasonable compensation for this inconvenience.

Kia Finance thinks that Mr P shouldn't receive any compensation as he didn't get his car serviced on time. So, the warranty the car has was 'voided'. Kia Finance has said that the first service was carried out 1,641 miles late. The second service was carried out 2,149 miles late. And the third service carried out 1,798 miles late.

Whether the warranty itself was valid doesn't really affect my consideration of the quality of the car. And I've noted that the Motor Ombudsman has said that the repairs should be made under the warranty, or free of charge to Mr P, and this has been done. So, I won't directly consider whether the warranty should still be in place.

I have considered if this lack of servicing should affect the compensation paid to Mr P. I'm not persuaded that this led to all the problems with the car. The exhaust and crank pulley wouldn't be affected at all. Not changing the oil could potentially have affected the turbo. But the car was serviced three times with what are relatively modest delays. I find it hard to say it's reasonable that the turbo and catalytic converter failed just due to these due to these servicing delays. And if they were I'd have to consider if the car was durable in any event.

Mr P was, at times in a car he said had a lower specification than the one he purchased. But he was kept mobile with a courtesy car throughout all the repairs. And he has been able to drive the car he purchased for a significant number of miles. And I can't discount that the lack of servicing may have contributed to some (although certainly not all of them) of the issues that went wrong with the car. So, I don't think any further compensation is due for this.

Taking everything into account I think the compensation our investigator has recommended is fair. And my decision is that Kia Finance should now pay this.

### **Putting things right**

I uphold this complaint against Hyundai Capital UK Limited and tell it to:

- Refund the £1,147.69 Mr P paid for a hire car.
- Pay 8% simple yearly interest on all refunded amounts from the date of payment until the date of settlement.
- Pay a further amount of £500 for any distress or inconvenience that's been caused due to the faulty goods.
- Remove any adverse information from the customer's credit file in relation to the agreement.

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

Hyundai Capital UK 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 P to accept or reject my decision before 15 April 2025.

Andy Burlinson  
**Ombudsman**