

Complaint

Mr P has complained about the quality of a car that Tandem Motor Finance Limited ("Tandem") supplied to him through a hire-purchase agreement.

He's said that the car wasn't fit for purpose and that in any event there are issues with its quality.

Background

In June 2024, Tandem provided Mr P with finance for a used car. The car was around nine years old and it is my understanding that it had completed around 64,226 miles at the time of the sale.

The cash price of the vehicle was £15,975.00 and Mr P purchased £1,664.17 in extras (comprising of a warranty costing £749.17, ceramic coating costing £707.50 and a preparation pack for £207.50). This resulted in the total purchase price being £17,972.00. Mr P paid a deposit of £318.80 and applied for finance for the remaining £17,653.20. Tandem accepted Mr P's application and entered into a 60-month hire-purchase agreement with him.

The amount borrowed was £17,653.20 and the loan had an APR of 18.51%, as well as interest, fees and total charges of £8,731.00 (comprised of interest of £8,721.00 and an option to purchase fee of £10). So the balance repayable of £26,384.20 was due to be repaid in 59 monthly instalments of £439.57 followed by a final instalment of £449.57.

There is no dispute that, in July 2024, Mr P contacted both the supplying dealer and the broker (which arranged the finance) to try and return the vehicle within 30 days of taking delivery of it. Mr P wanted to return the vehicle as he thought that the car wasn't fit for purpose, on account of it not being a suitable family vehicle.

Mr P's request wasn't accepted so he complained to Tandem – attempting to formally reject the car - as a result. At this point, Mr P told Tandem that he felt that there were also issues with the way that the ceramic coating had been applied too.

Tandem issued its final response to Mr P's complaint in July 2024. It said that it wasn't prepared to accept Mr P's rejection of the car, as it was not persuaded that Mr P had grounds to, and wasn't upholding Mr P's complaint. Mr P remained unhappy with Tandem's response and referred his complaint to our service.

Mr P's complaint was reviewed by one of our investigators. He reached the conclusion that the car was fit for purpose and he wasn't persuaded that there were faults which meant that the car wasn't of satisfactory quality at the time it was supplied to Mr P either. So he didn't recommend that Mr P's complaint be upheld and didn't think that it would now be fair and reasonable for Mr P to now reject the car.

Mr P disagreed with our investigator's view and asked for his complaint to be passed to an ombudsman for a final decision. So the complaint has been passed to me to decide.

My findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I'm satisfied that what I need to decide in this case is whether the car supplied to Mr P was of satisfactory quality. Should it be the case that I don't think it was, I'll then need to decide what's fair, if anything, for Tandem to do to put things right.

Having carefully considered matters, I'm satisfied that it's more likely than not that the vehicle Tandem supplied to Mr P was of satisfactory quality. So I'm not upholding Mr P's complaint. I'll explain why in a little more detail.

The finance agreement in this case is a regulated hire-purchase agreement, which we are able to consider complaints about. Under the hire-purchase agreement, Tandem purchased the vehicle from the dealership Mr P visited.

Mr P then hired the vehicle from Tandem and paid a monthly amount to it in return. Tandem remained the legal owner of the vehicle under the agreement until Mr P's loan was repaid.

This arrangement meant Tandem was the supplier of Mr P's vehicle and so it is also responsible for answering a complaint about its quality.

The Consumer Rights Act 2015 ("CRA")

The CRA covers hire-purchase agreements – such as Mr P's agreement with Tandem. Under a hire-purchase agreement, there are implied conditions that the goods supplied will be of satisfactory quality.

The CRA says the aspects of the quality of the goods and whether they are satisfactory 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.

Is the car fit for purpose?

Mr P says that he should be allowed to reject the car as he told the supplying dealer and the broker that he didn't want it within 30 days of taking delivery of it. There is no dispute that Mr P, at least, attempted to exercise a right to reject the car in the first 30 days after taking delivery of it.

However, just because Mr P told the supplying dealer and the broker that he no longer wanted the car within 30 days, this on its own doesn't mean that the car should be taken back. I say this because Mr P was only able to exercise a short term right to reject if he had grounds for doing so – for example the car wasn't of satisfactory quality. As this was a face to face, rather than a distance, sale the supplying dealer and/or Tandem didn't need to take the car back if Mr P simply changed his mind about it.

Mr P has argued that he did have short-term right to reject the car. He says that this is because the car Tandem supplied to him isn't fit for purpose. I understand that this is because he believes that the boot space isn't big enough for the car to be used as a family car. He says that there isn't much space left in the boot once he fits a pram in.

Mr P has also said that the supplying dealer would have known that he wanted a car that was suitable for family use. This is because he went to the dealership with his partner and

their baby and he told the salesperson that he needed a family car. I've carefully thought about what Mr P has said.

In the first instance, I've not seen anything to indicate that the car was not fit for its general purpose of transporting a driver and passengers. Furthermore, while the salesperson should have been aware that Mr P had a family, having viewed pictures of the car, it doesn't seem obvious to me that Mr P wouldn't be able to transport his family in the car. The car has four doors and at least four seats and it doesn't seem obvious to me that it cannot have a child seat fitted in. So to start with I'm not persuaded that the car wasn't generally fit for purpose.

Mr P argues that his need to fit a pram in the boot should have made the supplying dealer aware that the car needed to be fit for a specific purpose. I've considered whether Mr P told the supplying dealer that he needed the car for a specific purpose and if so whether this might mean that the car wasn't fit for purpose.

In reaching my conclusions on this matter, I've kept in mind that Mr P went to the supplying dealership and this wasn't a distance sale. So Mr P was able to view the car himself before he agreed to take it. Indeed, it is also my understanding that Mr P test drove the car as well. Although I do appreciate that Mr P may not have been able to test drive the car for as long as he may have wanted to.

I accept that the salesperson may have told Mr P that the boot was large enough to fit a pram in it – what I've seen from the papers suggests that Mr P's own pram fits into the boot. However, I don't think that the supplying dealer would have said that the boot was able to fit any pram in it. Particularly as prams come in all shapes and sizes. For example, some can be folded in order to be transported. Equally, the salesperson couldn't be expected to know that Mr P would want to fit other things into the boot at the same time as his pram (which as I've said, everything I've seen suggests does just about fit in) and what those other things are.

And as Mr P was able to view and then test drive the car, he would have known about the size of his pram and also what else he might want to fit into the boot at the same time. And I do think that he was best placed to assess whether the size of the car's boot met his needs. I'm also mindful that Mr P had the car for around 28 days before he decided that he wanted to return it. And in my view, Mr P would have tried to return it sooner, if it had not been fit for purpose from the start.

It's possible that Mr P, with the benefit of hindsight, might have changed his mind and now believes that a larger car would better suit his needs going forward. However, this doesn't mean that the car Tandem supplied him with wasn't fit for purpose, or that Tandem has acted unfairly in refusing to accept its return.

Overall and having considered everything, for the reasons I've explained, I'm satisfied that the car Tandem supplied to Mr P, in June 2024, is fit for purpose and I've not been convinced to uphold the complaint on the basis that the car is not of satisfactory quality on the basis that it is not fit for purpose.

As Mr P has also said that there are faults with the car, I'll now consider whether there are any faults which mean the vehicle Tandem supplied wasn't of satisfactory quality.

Are there any faults with the vehicle that Mr P was supplied which mean that it was not of satisfactory quality?

It is not in dispute that Mr P is now unhappy with a number of issues on the car. Mr P is unhappy with the way that the ceramic coating has been applied. He's also said there is a

problem with the catalytic converter as he's noticed an egg like smell when the car is being driven and he believes there are problems with the gearbox. Finally, Mr P is unhappy at the fact that he's had to have a puncture on one of the tyres repaired.

On the other hand, Tandem says it has not been persuaded that there are any faults with the vehicle which mean that it is of unsatisfactory quality. I've considered the parties' submissions on this matter and I've formed my own conclusions.

In the first instance, I can't see that Mr P reported any issues with a tyre to Tandem at the time of his complaint. Nonetheless, the vehicle order form does state that the rear passenger tyre (presumably the rear offside tyre) needs to be changed. I don't know if the picture Mr P has provided is for the rear offside tyre. But if it is, Mr P should supply this picture and the invoice he paid for the puncture to be repaired to Tandem for this to be considered.

In any event and most importantly, as a tyre is a consumable which a reasonable person would require replacing in the time that they have a car, I don't think that Mr P having to repair a puncture means that he should be able to reject the car.

I now turn to the main faults Mr P has reported. I've considered everything Mr P has said and in doing so, I have had to keep in mind that Mr P took has a car that was not only used, but it was around nine years old when it was sold and it had completed over 64,000 miles. There are clearly different expectations regarding the quality when comparing a vehicle which has had some use, to a new car. I think it's fair to expect an older car will require repair or maintenance work sooner than a newer or less used model.

So it doesn't automatically mean that car a needing a repair or service at some point after purchase means that it wasn't of satisfactory quality at the time of supply. As this is the case, I need to reach a conclusion as to whether any repair work is required in order to get the car operational. And if so, whether this means that the vehicle Tandem supplied to Mr P wasn't of satisfactory quality.

Our investigator asked Mr P to contact an independent expert to get a report on what faults there may be on the vehicle and if there are any, an opinion on whether any faults were present at the point of sale. This isn't out of the ordinary and is a common way of finding out if a fault exists on a vehicle and if a car was of satisfactory quality at the time that it was supplied.

Mr P has got a report from a garage. I've considered this. However, I'm afraid that it does not support that the car was of unsatisfactory quality when it was supplied. The technician who tested the car said that he was not able to reproduce the smell Mr P said was coming from the catalytic converter during his road test. He also says that he was unable to test and find any problem with the gearbox either. I've also noted that the engineer hasn't said anything at all about the ceramic coating and if this was correctly applied.

I know that Mr P has said that the engineer was not able to drive the car long enough for the faults to show. And since our investigator's assessment he's also said that the car overheats and has other issues. But as this is all that Mr P has been able to supply, I have to make a decision on the basis of this.

I'm also aware that the car passed an MOT shortly before it was supplied to Mr P. I can't see that there were any advisory notices relating to the car's catalytic convertor or its gearbox, any or all of which might have given some support to Mr P's evidence. Indeed, I haven't seen that advisory notices have been issued for the catalytic converter or gearbox for any of the MOTs carried out on the car.

Without having been provided with a report showing any faults with the car and in light of the MOT history, I'm not in a position where I can reasonably conclude that the available evidence shows me that Tandem supplied Mr P with a car that was not of satisfactory quality. If Mr P changes his mind and wants to provide a more detailed report, he's free to provide this to Tandem for it to consider in first.

But for now, I accept that the car does not drive as new. But I'm satisfied that this is likely to be down to general wear and tear and is to be expected for a vehicle of the age and mileage Mr P was supplied with. I consider that some of these issues may have got worse after Mr P was supplied the car. But overall I've not persuaded that the car supplied to Mr P by Tandem was not of satisfactory quality. So I'm not upholding Mr P's complaint.

For the sake of completeness, I would add that I've noted that Mr P has raised a number of errors in the paperwork about the inspection which took place before the supplying dealer delivered the car. I think that he's effectively arguing that this means that the car wasn't prepared in line with the preparation pack he paid for. However, this is something new which did not form part of Mr P's initial complaint. Indeed Mr P did not mention anything about this until his response to our investigator.

So neither Tandem, nor the supplying dealer (who is probably best placed to comment on this) have had the chance to respond to these matters. As this is the case, Mr P will need to contact Tandem and/or the supplying dealer for these matters to be considered. And as what Mr P has said about this paperwork does not affect whether or not the car was of satisfactory quality, I make no comment on these matters in this final decision.

Overall and having considered everything, I've not been convinced to uphold Mr P's complaint. I appreciate that this is likely to be very disappointing for Mr P – particularly as he will be left in a position where he is being expected to pay for a car which he says he's unable to use without first getting it repaired. But I hope he'll understand the reasons for my decision and that he'll at least feel his concerns have been listened to.

My final decision

For the reasons I've explained, I'm not upholding Mr P's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 15 January 2025.

Jeshen Narayanan
Ombudsman