

The complaint

Mr B complained about the quality of a used car he acquired under a hire purchase agreement with Toyota Financial Services (UK) PLC ('TFS').

When I refer to what Mr B or TFS have said or done, it should also be taken to include things said or done on their behalf.

What happened

In April 2022, Mr B acquired a used car through a hire purchase agreement with TFS. The cash price for the car was £25,598 and Mr B paid a deposit of £1,000. The total amount of credit was £24,598 over 49 months, comprising an initial payment of £361.45, followed by 47 monthly payments of £361.45 and a final payment of £12,361. The car was first registered in 2015 and at the time of supply it had travelled around 77,200 miles.

On the day he got the car Mr B noticed a leak from the engine area and he reported this to the supplying dealer by email immediately. Around a week later Mr B noticed a knocking sound from under the car when going over a bump or braking, and he also reported this to the supplying dealer, who told him to contact the service centre and book the car in for repairs. Mr B said that in May 2022 the car was inspected by a manufacturer garage who told him it had serious problems, including the following issues:

- Coolant light coming on intermittently.
- The front lower arm bushes had excessive movement and were knocking when braking.
- There was an oil leak from the differential where it was suspected that the pinion seal was leaking.
- MAP mass or volume air flow correlation that required more testing.
- A leaking/noisy turbo which required further investigation.

Mr B says the garage estimated it would cost around £3,258.67 to put everything right and says they also told him there was a potential fire risk relating to the turbo. After a couple of weeks, the car was returned to Mr B without any repairs having been done, because of issues relating to the warranty which were later resolved. Mr B contacted the supplying dealer and TFS at the end of May 2022 to notify them of the car's problems and said he wanted to reject the car.

The supplying dealer asked Mr B to take the car back to the garage to get a formal quote for the repairs. The garage provided a quote and marked the turbo as requiring urgent attention. They also noted that the knocking sound Mr B reported was due to both front lower suspension arms failing.

Mr B says the supplying dealer then asked him to take the car to a different garage because they thought some of the costings on the quote from the first garage were wrong or inflated. Mr B arranged this around July 2022 and this garage fixed the issue with the front suspension arms. In relation to the turbo however, they said the noise from the turbo could

be heard but no lack of power or performance was noted. Later in September 2022 the car had a new coolant tank and sensor replaced under warranty.

Towards the end of September 2023, when Mr B took the car in for a routine service, he said the turbo was still noisy and he asked the servicing garage to have a look at it, paying £70 in addition to the routine service cost. The servicing garage road-tested the noise of the turbo and shaft bearings and confirmed the turbo was noisy, but they said that it would cost a further £408 to do a proper inspection of the turbo. Mr B declined to pay this as he couldn't afford it at the time.

In early January 2024, the car failed its MOT because the suspension arm ball joint dust covers, on the nearside and offside, were no longer preventing the ingress of dirt. Mr B paid £246.91 for that repair.

Around this time Mr B complained to TFS regarding the ongoing issues with the turbo. In February 2024 TFS issued its final response to Mr B and said they weren't upholding his complaint because they don't agree the car wasn't of satisfactory quality when supplied and therefore can't agree to Mr B's request to reject it.

TFS said that when the car was previously inspected by a manufacturer garage in July 2022, that garage confirmed there was no fault found with the turbo at that time and that in September 2023 Mr B declined to pay for a full investigation of the turbo when the car was having its routine service, despite him still having concerns about it.

TFS said that Mr B accepted repairs being done to the car within the first six months of supply, in line with the Consumer Rights Act, but as he has now raised additional issues outside of this period the onus now lies with him to pay for repairs or to provide evidence confirming the issues were either evident or developing at the point of sale.

They added that, given the age and mileage of the car, it is expected that wear and tear issues may occur, but they remained happy to inspect the car and diagnose the issue and that if Mr B continues to experience issues with the car, he should book it in for a further inspection.

Mr B was unhappy with this response, so he referred his complaint to the Financial Ombudsman Service (Financial Ombudsman) in February 2024, telling us that:

- He gave TFS several chances to repair the car, but they haven't done so. He said the ongoing turbo issues have been investigated three times but no effort to repair has been made.
- The repairs which TFS say were carried out in the first six months after supply related to the suspension arms.
- He declined to pay for the further diagnostics for the turbo because he had already paid £70 for the initial investigation thinking that would identify the problem with the turbo, but he was then told it would cost approximately £408 more for further diagnostic work which he couldn't afford at that point.
- The car was supplied to him with approximately £3,200 worth of urgent issues, which he reported straight away.
- He believes he has the right to reject this car because he has proved the fault with the turbo was present when the car was supplied, having brought this to TFS's attention at that time and they've made no attempt to fix it.
- He was also unhappy with communication and updates from the supplying dealer throughout the process from the point of supply until now.

Our investigator concluded that there is sufficient evidence to say that the car wasn't of satisfactory quality when it was supplied to Mr B and that TFS need to do something to put things right. They said that because Mr B didn't reject the car within 30 days of supply, it wouldn't be fair to TFS to allow rejection of the car at the present time, without further investigation of the turbo issues, and TFS should be given more time to inspect the car and perform the necessary repairs to the turbo.

Because TFS didn't accept our investigator's outcome the matter has been passed to me to make a decision.

After reviewing the case I issued a provisional decision on 16 January 2025, where I explained my intention to uphold the complaint. In that decision I said:

"What I've provisionally 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.

If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome. Where evidence has been incomplete or contradictory, I've reached my view on the balance of probabilities – 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, any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time.

Mr B was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we're able to investigate complaints about it.

I know that Mr B is also unhappy with the communication and updates from the supplying dealer after the point of sale, but in this decision I'm only considering the actions of TFS and what they are responsible for.

The Consumer Rights Act 2015 (CRA) covers agreements such as the one Mr B 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 B took possession of it, or that the car wasn't sufficiently durable, and this made the car not of satisfactory quality, it'd be fair and reasonable to ask TFS to put this right.

The car Mr B acquired was first registered in 2015 so when he got it in April 2022 it was around seven years old, and its cash price was £25,598. At that point, the car had travelled around 77,200 miles. So, the car had travelled a reasonable distance and it's reasonable to expect there would be some wear to it as a result. Therefore, I'd have different expectations of it compared to a brand-new car and also, as with any car, there's an expectation that there will be ongoing maintenance and upkeep costs. So, the supplier (here TFS) wouldn't generally be held responsible for anything that was due to normal wear and tear whilst the

car was in Mr B's possession. But given the age, mileage and price paid, I think it's fair to say that a reasonable person wouldn't expect anything significant to be wrong with the car shortly after it was supplied.

However, in this case, I think there is sufficient evidence to say that the car wasn't of satisfactory quality, or reasonably durable, when supplied to Mr B and I will explain why below.

Mr B noticed problems with the car as soon as he acquired it. On the day he got it, he reported a leak from the engine area to the supplying dealer and around a week later he also reported a knocking sound coming from under the car when going over a bump or braking. When the car was taken in for inspection of these issues around five weeks later, the inspecting garage identified a range of problems with the car including the coolant light coming on intermittently, the front suspension arm bushes having excessive movement, a differential oil leak, a MAP mass or volume air flow correlation that required more testing and a leaking/noisy turbo. In relation to the turbo, the quote from the garage notes "RH turbo leaking and noisy, requires inspection of turbos and further investigation."

The supplying dealer thought this quote was too high so asked Mr B to take the car to a different repairing garage which they said would be cheaper. The second garage addressed the issue with the front suspension arms, but in relation to the turbo they said it was noisy, but not faulty and that the whistling noise Mr B was hearing was normal. At this point, around July 2022, the mileage on the car was about 78,004 miles, so it had only travelled 804 miles since Mr B got it. Around October 2022 the coolant tank and sensor were also replaced, which Mr B says was covered by the warranty.

TFS say they didn't uphold Mr B's complaint because the garage which inspected the car in July 2022 said the turbo wasn't faulty, just noisy but also because they said Mr B raised additional issues outside of the initial six-month period after supply of the car. They said this means that the onus now lies with Mr B to pay for repairs or to provide evidence confirming the issues raised were either evident or developing at the point of sale.

Considering the car was about seven years old and had travelled a reasonable number of miles, I don't think that some of the issues when considered alone would mean the car wasn't of satisfactory quality when supplied. However, when looked at together, the sheer number of issues with the car does lead me to the conclusion that the car wasn't of satisfactory quality when it was supplied to Mr B. In this respect I'm referring to issues including the coolant light/sensor, the coolant tank, the front suspension arm bushes, the differential oil leak, and also the ongoing issues with the turbo. As these issues were identified soon after Mr B acquired the car, I'm persuaded that they were present or developing at the point of supply.

Most of these faults have already been fixed during 2022. However, the outstanding issue which remains in dispute between the parties is the turbo. Having reviewed the evidence provided about this, I don't agree with TFS that the turbo is an issue raised outside of the first six months. I say this because the turbo was identified as noisy and needing further investigation by the first inspecting garage in May 2022, and even the second garage which inspected it in July 2022 accepted that the turbo was noisy, although they said the noise was normal and the turbo wasn't faulty. Therefore, I think there's sufficient evidence to show that the issue with the turbo was raised shortly after Mr B acquired the car, because he acquired the car on 19 April 2022 and the turbo issue was raised by the first inspecting garage and notified by Mr B to the supplying dealer in May 2022.

I also don't agree that the turbo wasn't and isn't faulty. I know the second garage which inspected the car in July 2022 said the turbo was noisy but not faulty, but all the other

garages which have inspected the car said the turbo was noisy and faulty, so I have considered this. I have also considered that when Mr B acquired the car its mileage was around 77,200 and turbos are generally expected to last around 100,000 miles if a car is properly serviced. Poor servicing can contribute to premature wear to the turbo and turbo bearings, especially if the amount and quality of the oil isn't checked regularly. I know that TFS say the car was serviced and underwent a 150-point check before they supplied it to Mr B, but they haven't been able to provide any evidence regarding what the 150-point check covered. So, in the absence of this I have also considered the service history of the car, and the available evidence indicates that the car missed services in 2016 and 2021. Taking into account that, most likely, some recommended services were missed prior to Mr B acquiring the car, I have considered the possible impact of all of this on the quality of the car. Whilst also taking into account the car's age and the mileage, I think it's likely that poor servicing contributed to the issues with the turbo.

Having carefully considered all of this, along with other relevant circumstances, including the relatively short time period between Mr B acquiring the car and the issues with the turbo coming to light, the unremarkable mileage covered during that period, the sheer number of issues with the car as a whole, and the agreement from all the garages which have inspected the car that the turbo is noisy and/or faulty, I think there is enough evidence to say that, on the balance of probabilities, the car had faults present or developing when supplied to Mr B and these faults, in particular the issue with the turbo, meant that the car wasn't of satisfactory quality at the time of supply.

I acknowledge that Mr B didn't pursue his concerns about the turbo after the July 2022 inspection, when the garage said it was noisy but not faulty, until the routine service in September 2023. However, I don't think it was unreasonable for Mr B to accept the garage's diagnosis at that point. But I also think this doesn't have any bearing on whether or not the car was faulty at the point of supply, nor do I think it was unreasonable for Mr B to raise concerns with the servicing garage about the turbo in September 2023, because it was still noisy, and he was still worried about it. Having paid £70 for an inspection of the turbo, Mr B had hoped this would diagnose the issue but when it didn't, I'm sympathetic to Mr B's position that he couldn't afford the further cost of over £400 to do a full diagnosis of the turbo issue.

Therefore, I agree with our investigator's conclusion that this complaint should be upheld, and that TFS need to do something to put things right for Mr B, and I've thought carefully about what the appropriate remedy in this case should be.

The CRA sets out that, where the supplied goods are not of satisfactory quality, the consumer has 30 days to reject them. The 30 days runs from the day after the date of delivery, but if the consumer agrees to or asks for a repair or replacement the clock stops running during the period of any repair or replacement. And on return of the car, the consumer has the remainder of the 30-day period or 7 days (whichever is the longer) to use the short-term right to reject if the car is still faulty.

I know some repairs were done during 2022 at no cost to Mr B, such as repairs to the coolant tank, the sensor and the suspension arms, but the turbo wasn't repaired and is still a concern for Mr B. So, I have considered whether it would be fair for Mr B to be able to reject the car at this stage, or would a repair be a fair option. Having considered the specific circumstances of this case, I don't think a repair would be fair and reasonable especially because Mr B has taken the car into various different garages on several occasions, including twice at the request of the supplying dealer because they weren't happy with either the format or amount of the repair quotes/estimates provided. So, I think Mr B has been co-operative and patient in working with the supplying dealer and TFS to try to resolve the

problems with the car, but still the issue with the turbo hasn't been addressed even though TFS were provided with ample opportunity to do so.

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 confirm to contract." This is known as the single chance of repair. And this applies to all issues with the goods, and to all repairs i.e., it's not a single chance of repair for the dealership AND a single chance of repair for business – the first attempted repair is the single chance at repair. What's more, if a different fault arises after a previous repair, even if those faults aren't related, the single chance of repair has already happened – it's not a single chance of repair per fault.

The CRA is clear that, if the single chance at repair fails, as was the case here, because the supplying dealer was made aware of the faults with the turbo, then the customer has the right of rejection.

So, I think Mr B should be allowed to reject the car. As such, the hire purchase agreement should be cancelled with nothing further to pay and TFS should also refund Mr B his deposit of £1,000. TFS should collect the car at no further cost to Mr B. They should also remove any adverse information from Mr B's credit file and the credit agreement should be marked as settled in full on Mr B's credit file, or something similar, and should not show as voluntary termination.

I have considered that Mr B has been able to use the car, so I think it's reasonable he pays for this use, and I'm mindful that he could have pursued his ongoing concerns about the turbo sooner. However, Mr B has also told us he was not using the car very much because he felt unsafe in the car, it makes a dreadful noise, and he was worried the turbo is going to blow up landing him with a very large bill. The current mileage of the car is 82,100 which means that the car has only covered 4,900 miles in the 32 months since Mr B acquired it, which is an average of only 153 miles per month. There is no exact formula for calculating this, but having considered all of the above, I think it is fair and reasonable that Mr B should receive a partial refund of 25% of the payments he has made under the agreement, to take account of his impaired use of the car.

I think Mr B has also experienced some distress, inconvenience and expense because TFS supplied him with a car which isn't of satisfactory quality. He told us he had to take several days off work to drive the car to the service centre three times, which is an 80-minute round-trip, incurring fuel costs, as well as paying approximately £70 in September 2023 to have the turbo inspected.

Overall, having considered the impact of the situation on Mr B, I think it would be fair for TFS to pay him £200 compensation to reflect the distress and inconvenience caused to him because TFS supplied him with a car which wasn't of satisfactory quality. I also think TFS should reimburse Mr B for the costs incurred for the turbo inspection as he wouldn't need to have paid this had TFS provided him with a car of satisfactory quality.

I considered whether TFS should refund Mr B the amount he paid to repair the suspension arm ball joint dust covers in January 2024 when the car failed an MOT. The reason I considered this is because around the middle of 2022 the front suspension arms were repaired at no cost to Mr B, because the front lower arm bushes had excessive movement and were knocking when braking. However, there isn't sufficient evidence to show that, most likely, the suspension arm ball joint dust covers were replaced in 2022, at the same time as the excessive movement in the arm bushes was addressed. Therefore, considering all the circumstances, including the age and mileage of the car when the fault occurred, I have concluded that these more likely needed replacing in January 2024 as a result of normal

wear and tear. Therefore, I don't think it's reasonable to ask TFS to refund the cost of this repair.

My provisional decision

For the reasons explained above, I intend to uphold this complaint and direct Toyota Financial Services (UK) PLC to:

- *End the agreement with nothing more to pay.*
- *Collect the car at no cost to Mr B.*
- *Refund Mr B's deposit of £1,000.*
- *Refund Mr B 25% of all payments made under the agreement for the period from April 2022 to the date of settlement.*
- *Refund Mr B £70 for the turbo inspection fee incurred in September 2023, as outlined above, subject to Mr B providing satisfactory proof of payment.*
- *Pay 8% simple yearly interest on all refunded amounts from the date of payment until the date of settlement.*
- *Pay Mr B a further £200 for the distress or inconvenience caused.*
- *Remove any adverse entries relating to the finance agreement from Mr B's credit file. The credit agreement should be marked as settled in full on Mr B's credit file, or something similar, and should not show as voluntary termination.*

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

I asked both parties to provide me with any additional comments or information they would like me to consider by 30 January 2025. Both parties responded.

Mr B says he accepts my provisional decision.

TFS confirmed they had received my provisional decision and said they would send any further information they wanted to provide before the deadline, however they didn't provide any further information by that date.

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 and considering Mr B accepts my provisional decision and neither Mr B nor TFS had any further information or comments to make, I see no reason to reach a different conclusion to what I reached in my provisional decision (copied above).

My final decision

For the reasons explained above and in my provisional decision, I uphold Mr B's complaint and direct Toyota Financial Services (UK) PLC to:

- End the agreement with nothing more to pay.
- Collect the car at no cost to Mr B.
- Refund Mr B's deposit of £1,000.
- Refund Mr B 25% of all payments made under the agreement for the period from April 2022 to the date of settlement.

- Refund Mr B £70 for the turbo inspection fee incurred in September 2023, as outlined above, subject to Mr B providing satisfactory proof of payment.
- Pay 8% simple yearly interest on all refunded amounts from the date of payment until the date of settlement.
- Pay Mr B a further £200 for the distress or inconvenience caused.
- Remove any adverse entries relating to the finance agreement from Mr B's credit file. The credit agreement should be marked as settled in full on Mr B's credit file, or something similar, and should not show as voluntary termination.

If Toyota Financial Services (UK) PLC considers that tax should be deducted from the interest element of my award, they should provide Mr B with a certificate showing how much they have 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 B to accept or reject my decision before 4 March 2025.

Liz Feeney
Ombudsman