DRN-5434255

The complaint

Mr N complains about the quality of a car supplied by Tandem Motor Finance Limited ('Tandem') on finance.

What happened

The parties are familiar with the background details of this complaint – so I will briefly summarise them here. It reflects my role resolving disputes with minimum formality.

On 20 July 2023 Mr N took out a hire purchase agreement for a car with Tandem. However, Mr N says that in the first week he noticed problems with it.

Mr N says this led to an eventual diagnosis of a faulty gearbox which the dealer agreed to fix. However, he says the dealer didn't carry out the repairs properly and the car has the same issues. He wants to return it.

Mr N got in touch with Tandem to complain about the car around April 2024. It concluded that there wasn't evidence that the gearbox had an underlying fault and the issues that have occurred can be attributed to reasonably expected wear and tear. It noted the miles driven and time passed since the point of sale. It referred to a report which concluded the same which was carried out in January 2025 ('Report A').

The matter was escalated to this service. Our investigator upheld Mr N's complaint and said Tandem should accept the car back.

Tandem disagreed. It referred to the overall age and mileage of the car which would cause wear and tear. And disagrees that the car is not reasonably durable in the circumstances. It pointed out that the report it had carried out was by an independent third party with no vested interest in the matter.

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.

While I might not comment on everything (only what I consider key) this is not meant as a discourtesy to either party – it reflects my role resolving disputes with minimum formality.

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 consumer credit agreement. As such, this service is able to consider complaints relating to it. Tandem is also the supplier of the goods under this type of agreement, and responsible for a complaint about their quality.

The Consumer Rights Act 2015 is of particular relevance 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".

The Consumer Rights Act 2015 says the quality of goods are satisfactory if they 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 vehicle's history.

The Consumer Rights Act 2015 ('CRA from now on') says the quality of the goods includes their general state and condition and other things like their fitness for purpose, appearance and finish and freedom from minor defects, safety, and durability can also be aspects of the quality of goods.

Tandem supplied Mr N with a second-hand car that was just under nine and a half years old and had done around 76,000 miles at the point of supply. The dealer priced it at £6,495 which is notably less than what a new or newer model with less mileage would cost. It is fair to say that in these circumstances a reasonable person would consider that the car had already suffered significant wear and tear – and was likely to require more maintenance and potentially costly repairs much sooner than you might see on a newer, less road worn model.

I appreciate and recognise Tandem's point here that the car would be expected to be notably less durable than a newer car. I also accept that after having travelled several thousand miles in the car and been in possession of the car for over a year, a reasonable person would accept the risk that major components would require renewal in a car of this age and mileage. And I note Report A broadly confirms the same. This is all evidence that is in favour of Tandem not having liability for the current condition of the car.

However, I don't consider a reasonable person would expect to be sold a car like this that already had an underlying significant issue related to a major component such as the gearbox and/or engine. In this case I think the evidence points to this being the case. I will explain why.

The issue here is that it appears to me both Tandem and Report A are focusing on an assessment of the car around 18 months after Mr N got it, rather than the circumstances shortly after he took delivery of it. I note that Mr N has provided credible testimony that the initial issue he had was the car would stutter, stall and the engine would cut out. And that it would struggle to change gears. He also says the engine light illuminated and says that this occurred the first week of using the car and that he contacted the dealer about it soon after.

I don't appear to have communication that occurred as soon as the first week after supply – but to corroborate Mr N's account I do have evidence of phone messages between him and the dealer about an apparent ongoing gearbox problem which appear to be within a few weeks of him taking delivery of the car. It seems the dealer told him to stop driving it and said it will look into the gearbox issue and remedy it. I can also see that Mr N went to take the car for diagnostics around the time and to get a repair estimate in early September 2023. He went to a third party garage ('Garage A'). Mr N has taken photos of the error codes produced on 5 September 2023 at Garage A which show several transmission, combustion and clutch related errors. I can also see that Mr N obtained a quote for the repairs from Garage A which states the transmission needs a 'rebuild' and this will cost £2,995. Mr N has shown that he sent this to the dealer on 13 September 2023.

Yes, this was an older and higher mileage car. But it seems unreasonable to expect such notable repairs (costing almost half of the car value) in such a short timeframe after supply. I also think Mr N is unlikely to have covered significant mileage before he reported the issues to the dealer because of the short timeframe in question.

So my starting point is it appears Mr N was sold a car by Tandem which needed notable repairs to the gearbox very soon after supply. And suggesting it was inherently faulty at the point of sale.

I note here that under the CRA the burden is on Tandem to show the gearbox fault was not present at the point of sale due to when the issue occurred. And although it has produced an independent expert report in the form of Report A – I don't consider this sufficient in discharging said burden here because it appears to have little (if any) consideration of the events which took place shortly after the sale, and the evidence showing the gearbox was identified as requiring a rebuild at this early stage.

I also note Report A suggests Mr N is at fault for not servicing the car and running it with low fuel over time. I am not sure what evidence there is for the latter in particular – but in any event, the issues occurred soon after supply – so I think it unlikely that Mr N can be blamed here for what has happened. Once again I don't think Report A really takes this into account.

I have carefully considered the age and mileage of the car at point of sale. But even after doing so I think a reasonable person would consider this car requiring almost £3,000 on a gearbox replacement almost straight after supply would render it of unsatisfactory quality in the circumstances. I also note that the dealer didn't argue that it was reasonable wear and tear damage, or due to Mr N's particular use either – it agreed to remedy matters.

So I turn to a fair remedy for the breach of contract here. Initially the dealer appears to have carried out repairs at no cost to Mr N. This is not an unreasonable remedy in light of the provisions of the CRA. And would in theory resolve any outstanding liability Tandem has for breach of contract.

However, the issue here is Mr N says the repairs did not address the underlying problem and he still has the same ongoing symptoms (as described above) and the need to have extensive gearbox repairs. I am satisfied this is likely to be the case because:

- Evidence of a job sheet shows that the garage acting for the dealer did not carry out the full gearbox rebuild as diagnosed by Garage A and chose to carry out a significantly cheaper repair on the clutch only.
- Within a relatively short time frame (2-3 months) after the repairs were carried out Mr N has shown evidence of reporting to the broker in December 2023 that the issues had 'come back'.
- Although Mr N had used the car since he says he got the car back after the first repair and the emergence of the later issues in December 2023 it appears he had completed no more than average monthly mileage in this period. Furthermore, Report A indicates the clutch could be coming to the end of its service life – calling into question what actual repairs the dealer had carried out if its garage claimed to have replaced the clutch in the first instance.
- Report A confirms the car is suffering from the same symptoms that Mr N says he had from the start - and says the car needs further work on the transmission to restore proper functionality.

So all things considered, I am satisfied on balance, that the original breach of contract was likely not sufficiently remedied by the repairs carried out via the dealership.

Under the CRA Tandem has one attempt at repair before Mr N is able to exercise his final right to reject. So I consider it fair that he can reject the car here.

I direct Tandem to collect the car without charging Mr N for this. It should also end the finance agreement, refund his deposit (this seems to be £105) and ensure there is no adverse information on Mr N's credit file relating to the agreement.

I don't think Mr N's testimony on when he stopped using the car completely is clear to me. He indicates he stopped driving it in December 2023 – but has also gone on to indicate that he did use it post the MOT in March 2024 for some essential journeys when an approximate 1,400 miles were added to it and he says he completely stopped using it in April 2024. Considering the mileage added since the MOT I don't think that is likely to be completely accurate and he I think he likely stopped using it completely at a later date. However, I do think he likely stopped using it some considerable time before January 2025 in any event. I consider this likely due to the fact he had to buy a new battery to get the car started again for Report A (suggesting it had been left sitting a while).

In the round I do think there were likely extended periods, including prior to and after April 2024 where Mr N wasn't using the car at all or as much due to the ongoing issues with difficulties changing gear and stalling/juddering. This is reinforced by the well below average overall mileage covered by the car between point of supply and Report A obtained in January 2025. Furthermore, there were times the car was in for the initial repair which would have deprived Mr N of some use of the car. And although Mr N has had use of the car for around 5,000 miles I am satisfied that some of this use has been notably impaired by the ongoing symptoms he described.

Our investigator has proposed that to put all this right Tandem refund Mr N 20% of his monthly payments made up to and including April 2024. And refund any payments made from May 2024 onwards.

While this isn't a science – in the circumstances I think this is a broadly fair way to reflect the overall impaired and lost use of the car during the time Mr N has had it, and resulting from the underlying issues which have rendered it of unsatisfactory quality at the point of supply.

Mr N has had some expenses in respect of the car. I think he should get some of these back. He replaced the battery in January 2025 for £164.99 – but this appears to be because he wasn't using the car for a period (due to the gearbox fault) and needed to get it started for the expert to carry out Report A. So he shouldn't have to pay for this. Mr N has also evidenced that he paid £125 for the original diagnostic with Garage A that identified the faulty gearbox – so he should fairly get this back too.

Mr N has pointed out that he has had some costs related to servicing and MOT – but these appear to be relatively minor and part and parcel of using an older car like this for several thousand miles as he has done. So I don't consider it fair that he gets this back too.

Mr N has clearly been caused distress and inconvenience by what has happened. And I think Tandem could have supported him better by recognising the early part of the timeline here and the apparent significant issues which started shortly after supply. Deciding fair compensation is not a science but I have noted what Mr N has said about the distress this has caused him. And I note this has gone on for a prolonged period of time. In the circumstances I consider the £200 our investigator proposed to be fair and reasonable.

Putting things right

Tandem should put things right as I have set out below.

My final decision

I uphold this complaint and direct Tandem Motor Finance Limited to:

- end the finance agreement ensuring the customer is not liable for monthly rentals after the point of collection (it should refund them any overpayment for these if applicable);
- take the car back without charging for collection;
- refund the deposit;
- refund 20% of payments made from the start of the agreement to April 2024;
- refund all payments made from May 2024;
- refund the expenses for the battery and diagnostic;
- pay 8% simple yearly interest on all refunds from the date of payment to the date of settlement; and
- ensure that there is no adverse information remaining on Mr N's credit file as a result of the agreement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 20 August 2025.

Mark Lancod
Ombudsman