

The complaint

Mr T complains about the quality of a car he acquired under a hire purchase agreement with Secure Trust Bank Plc trading as V12 Vehicle Finance (V12).

When I refer to what Mr T has said and what V12 have said, it should also be taken to include things said on their behalf.

What happened

In October 2022, Mr T entered into a hire purchase agreement with V12 to acquire a used car. The car was first registered in March 2014. At the time of acquisition, the car had travelled approximately 122,135 miles as per the MOT from around that time. The cash price of the car was approximately £10,995 when Mr T acquired it. The total amount payable under the finance agreement was approximately £14,657. Mr T made a deposit of about £250. The agreement consisted of 59 monthly repayments each of around £239.95 and a final repayment of £249.95.

Less than two weeks after acquiring the car, Mr T sent a text message to the supplying dealership stating that he was having problems with the off-side rear door lock on the car. About two months after acquisition, Mr T's partner noticed issues with the heating/climate control module on the passenger side. Mr T said he had not previously noticed this as he mostly travelled alone. The supplying dealership told Mr T that he could get the car repaired under warranty instead of bringing the car back to them, as he lived about 400 miles away from the dealership. But Mr T said he approached about 20 local garages, and all did not want to carry out the necessary work covered by the warranty. As he was not getting the issues resolved, in June 2023 Mr T contacted the broker, who in turn contacted the dealership. At the time, the dealership mistakenly said they had no contact with Mr T. Mr T was asked to obtain a diagnostic report. So, in July 2023, Mr T arranged for a diagnostic report which was completed by the car's manufacturing garage. He paid £186 for the report which indicated that: *'o/s/r door latch sticking req new latch 477.07 GBP'* and *'heater cold on n/s list of fault codes for motor rod adrift and will not move poss flaps inside heater box advise new heater box 4,900.10 GBP'*. In the same month Mr T raised a complaint with V12 and provided them with the above report.

In August 2023, V12 wrote to Mr T. In this correspondence they said they are not upholding his complaint, as they have not received sufficient evidence to show the current issues were present at the point of sale. They said that with a used car like Mr T's, some wear and tear would be expected. And that due to issues being reported nine months after the sale, they need evidence that it was occurring at point of sale. V12 felt it was Mr T's responsibility to evidence whether the current issues were present or developing at the point of sale.

In August 2023, as Mr T was unable to lock the car without the alarm going off frequently, he decided to take the car off the road and has kept in a secure location since.

And as he remained unhappy, he referred his complaint to the Financial Ombudsman Service (Financial Ombudsman).

Our investigator considered Mr T's complaint and was of the opinion that the car was not of satisfactory quality when supplied. The investigator thought the appropriate remedy would be for the V12 to arrange and carry out the repairs, pay a refund of payments from August 2023, when Mr T was unable to use the car, plus refund 10% of the payments made from 21 October 2022 to 14 August 2023 to reflect the impaired use caused by the car not being of satisfactory quality. The investigator also thought that V12 should refund Mr T £186 he paid for the diagnostic and pay 8% interest on the refunded amounts. In addition, the investigator thought that V12 should pay Mr T £250 for any distress or inconvenience caused. Unless it is not economical for V12 to do the repairs, in which case the investigator said it would be fair and reasonable, in addition to redress above, that the hire purchase agreement is ended, V12 collects the car from where Mr T is storing it at no cost to him. And refunds him the £250 deposit plus pays 8% simple yearly interest on this amount from the date of payment until the date of settlement.

V12 only partially agreed, so the complaint has been passed to me to decide.

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.

Where evidence is unclear or in dispute, I reach my findings on the balance of probabilities – which is to say, what I consider most likely to have happened based on the evidence available and the surrounding circumstances.

In considering what is fair and reasonable, I need to take into account the relevant rules, guidance, good industry practice, the law and, where appropriate, what would be considered good industry practice at the relevant time. Mr T acquired the car under a hire purchase agreement, which is a regulated consumer credit agreement. Our service can look at these sorts of agreements. V12 is the supplier of goods under this type of agreement and is responsible for dealing with complaints about their quality.

I have summarised this complaint very briefly, in less detail than has been provided, and largely in my own words. No discourtesy is intended by this. If there is something I have not mentioned, I have not ignored it. I have not commented on every individual detail. But I have focussed on those that are central to me reaching, what I think is, the right outcome. This reflects the informal nature of the Financial Ombudsman as a free alternative to the courts.

Also, I can only consider the actions/inactions of V12 and only the aspects they are responsible for, and I cannot look at certain actions and/or inactions of the dealership which Mr T said he is unhappy about. So, in this decision I only focused on the aspects I can look into. And, I am only looking at the events that have been raised by Mr T with V12, the ones they had an opportunity to address in their correspondence sent to him in August 2023.

The Consumer Rights Act 2015 (CRA) covers agreements such as the one Mr T 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.

In Mr T's case the car was about eight years old, with a cash price of around £10,995. It had covered around 122,135 miles as per the MOT from around that time. So, the car had travelled a reasonable distance, and it is reasonable to expect there to be some wear to it because of this use. I would have different expectations of it compared to a brand-new car. As with any car, there is an expectation there will be ongoing maintenance and upkeep costs. There are parts that will naturally wear over time, and it is reasonable to expect these to be replaced. And with second-hand cars, it is more likely parts will need to be replaced sooner or be worn faster than with a brand-new car. So, V12 would not be responsible for anything that was due to normal wear and tear whilst in Mr T's possession. But given the age, mileage and price paid, I think it's fair to say that a reasonable person would not expect anything significant to be wrong shortly after it was acquired.

Mr T thinks that he should be entitled to reject the car.

The CRA sets out that Mr T has a short term right to reject the car within the first 30 days, if the car is of unsatisfactory quality, not fit for purpose, or not as described, and he would need to ask for the rejection within that time. Mr T would not be able to retrospectively exercise his short term right of rejection at a later date.

The CRA does say that Mr T would be entitled to still return the car after the first 30 days, if the car acquired was not of satisfactory quality, not fit for purpose, or not as described, but he would not have the right to reject the car until he has exercised his right to a repair first – this is called his final right to reject. And this would be available to him if that repair had not been successful.

First, I considered if there were faults with the car. Based on the diagnostic report and Mr T's testimony, it is clear that the car was faulty. There was an issue with the door latch sticking and it needed a new heater box. But just because a car was faulty does not automatically mean that it was of unsatisfactory quality when supplied. So, I have considered if the car was of unsatisfactory quality when it was supplied to Mr T.

I agree with our investigator who said that the car was not of satisfactory quality when supplied. Mr T only had the car for approximately two weeks when he raised the door issue, with the supplying dealership, and only about two months when he raised the issue about the heater box. I can see from the diagnostic report that to fix both issues would cost more than £5,000. So, needing these repairs is a significant problem to arise, and is very expensive to put right. Given the age, mileage of the car, and the price paid, combined with how significant the faults are and how quickly Mr T raised these, I do not think this was a cost a reasonable person would expect to bear, or faults that would be expected to arise in the time frame Mr T has had the car. So, I think most likely the car was of unsatisfactory quality when supplied.

V12 have agreed to settle the complaint in line with the investigator's recommendations, however they have asked for an up-to-date invoice for the needed repairs as they said they need to ensure that any repairs they authorise will be economically viable. V12 said, in normal circumstances, they would ask the supplying dealership to carry out any necessary repairs, but they said that as Mr T was not in agreement with the supplying dealership carrying out the repairs, so he was asked to obtain a quote from a garage of his choice. So V12 does not believe they are being unreasonable in asking Mr T to obtain an up-to-date quote.

But I disagree and I do not think it would be fair or reasonable to ask Mr T to get an updated quote. Mr T has not indicated that he does not want the supplying dealership to carry out the repairs and I think Mr T's concern is with the long distance that he would have to travel to the supplying dealership. But Mr T is not obligated to bring the car to the supplying dealership

and, in fact, V12 should be the one to arrange for the car to be collected and repaired. It is up to them where they repair the car, so if they chose to collect the car and take it to the supplying dealership, that is an option available to them. This is provided that once the fault with the door and with the heater box is repaired, they deliver the car back to Mr T without him incurring any cost. This is because they supplied Mr T with a car of unsatisfactory quality, so under the CRA they are responsible for carrying out the repairs within a reasonable time and without significant inconvenience to Mr T. Considering Mr T already got a quote previously for the repairs required, and considering that he also tried again to get an updated quote but was unsuccessful, I do not think it would be fair or reasonable for him to incur any further inconvenience. As such, V12 should arrange and carry out the repairs to the door and the heater box at no cost to Mr T and within a reasonable timescale.

I will also say that I think a repair is the right outcome in this case, but considering Mr T's ideal solution would be to reject the car, if V12 thinks it would be disproportionate to make the repairs, as this would impose costs on them that most likely would be deemed unreasonable, then Mr T should be allowed to reject the car instead of arranging a repair. If V12 chose this option, they should end the hire purchase agreement with nothing further to pay and collect the car from wherever it is located at no cost to Mr T.

Also, whichever option V12 chooses, whether a repair or rejection of the car, they should also do all of the below.

Refund Mr T £186 he paid for the diagnostic, as he would not have incurred this cost had they provided him with a car that was satisfactory quality.

Mr T has been able to use the car until August 2023, so I think it is reasonable he pays for this use. However, driving the car with being unable to close the door and with a broken heater box is likely to have been somewhat stressful and annoying to him. So, this would have reduced the enjoyment and utility Mr T would have had while driving the car. There is no exact mathematical method to quantify the impact on Mr T having had to drive the car with these issues, but having considered the circumstances, I think that Mr T should be entitled to 10% of the hire purchase repayments he has made since he first experienced the issues in October 2022. So, V12 can keep any payment he has made up until he stopped using the car in August 2023, except for 10% of all payments he made from 21 October 2022 to mid-August 2023.

V12 should also refund any deposit/advance payment Mr T directly made himself towards the finance agreement. I think in this case the amount is around £250. But only refund this amount if Mr T is allowed to reject the car instead of a repair being arranged.

Any adverse information should be removed from Mr T's credit file. If V12 chooses to end the hire purchase agreement with nothing further to pay and collects the car, then the credit agreement should be marked as settled in full on his credit file, or something similar, and should not show as a voluntary termination.

V12 should also add interest to the refunded amounts from the date of each payment until the date of settlement. Interest should be calculated at 8% simple per year.

I also think that this matter caused Mr T a lot of distress and inconvenience when trying to resolve it. He had to take the car to several garages when he was trying to have the issues repaired under the warranty, as instructed by the supplying dealership. Plus, he had to get the diagnostic and had to correspond extensively with the dealership and V12. Which I think he would not have had to do if V12 supplied him with a car that was of a satisfactory quality. So, I think V12 should pay him £250 in compensation to reflect the distress and inconvenience caused.

My final decision

For the reasons given above, I uphold this complaint and direct Secure Trust Bank Plc trading as V12 Vehicle Finance to:

1. Arrange and carry out the repairs to the door and the heater box at no cost to Mr T and within a reasonable timescale. Or end the hire purchase agreement with nothing further to pay and collect the car from wherever it is located at no cost to Mr T;
2. Refund Mr T £186 he paid for the diagnostic;
3. Refund 10% of all hire purchase repayments since Mr T first experienced the issues from 21 October 2022 onwards;
4. Refund any hire purchase repayments Mr T made for the period from mid-August 2023 onwards;
5. Refund any deposit/advance payment Mr T directly made himself towards the finance agreement, in this case, I think, around £250. But only refund this amount if Mr T is allowed to reject the car instead of a repair being arranged;
6. Add 8% simple interest per year to all refunded amounts, from the date of each payment to the date of settlement;
7. Pay Mr T £250 compensation;
8. Remove any adverse information recorded on Mr T's credit file in relation to this credit agreement. And if the hire purchase agreement is ended, then the credit agreement should be marked as settled in full on his credit file, or something similar and should not show as voluntary termination.

If Secure Trust Bank Plc trading as V12 Vehicle Finance considers that tax should be deducted from the interest element of my award, they should provide Mr T 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 T to accept or reject my decision before 20 May 2025.

Mike Kozbial
Ombudsman