

The complaint

Mr H is unhappy that a car supplied to him under a hire purchase agreement with Tandem Motor Finance Limited (Tandem) was of unsatisfactory quality and what Tandem has offered to do to resolve matters doesn't reflect the impact caused.

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

What happened

In September 2023, Mr H was supplied with a used car through a hire purchase agreement with Tandem. The car was first registered in June 2014 and the car had travelled around 84,118 miles at the time of supply. The cash price of the car and amount of credit was £3,999 and the duration of the agreement was 36 months; with 35 monthly payments of around £147 and a final payment of around £157, including an option to purchase fee.

Mr H complained to Tandem in June 2024 that the car wasn't of satisfactory quality. Mr H said there were faults with the car from day one and a diagnostic carried out in December 2023 identified a fault relating to a camshaft issue.

Tandem instructed an independent engineer to inspect the car, which took place in July 2024. The engineer confirmed there were still faults, including the same camshaft related diagnostic code, an oil leak to the rocker cover gasket and failed combustion leak test. They said the faults found would've been present at the point of supply.

Tandem initially agreed to repair the car but was later provided evidence that the dealer had already been given the opportunity to repair it. So, Tandem agreed to unwind Mr H's agreement, with a deduction of £1,769.50 for fair usage – calculated as 25p per mile covered by Mr H. They also paid him £300 compensation for the distress and inconvenience caused, which he accepted.

Mr H didn't think Tandem's offer was sufficient as the car had been faulty from day one, and had they done something about it sooner, he wouldn't have paid 11 monthly payments. Mr H thought he should be refunded the payments he made towards the agreement, so he could put this towards a new car.

Our Investigator reviewed matters and agreed it was fair for Tandem to apply a fair usage charge. However, they didn't think it had been calculated fairly. They said Mr H should pay his monthly payments for the 11 months he was able to use the car - and this amount equates to around £150 less than what Tandem had charged. So, they thought this amount should be refunded to Mr H.

Tandem didn't agree. In summary, they said the mileage deduction was calculated at 25p per mile in line with industry standard.

As no agreement was reached, the matter was passed to me to decide.

I issued a provisional decision, setting out my intentions to uphold Mr H's complaint. I said:

In considering this complaint I've taken into account 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 H was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we are able to investigate complaints about it. The Consumer Rights Act 2015 (CRA) covers agreements such as the one Mr H 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.

So, where it's found that a car was faulty at point of sale, or that the car wasn't sufficiently durable, and this made the car not of a satisfactory quality, it'd be fair and reasonable to ask the finance provider, in this case Tandem, to put this right.

In this instance, it's not disputed there was a camshaft issue, nor that the car wasn't of satisfactory quality. As such, I'm satisfied that I don't need to consider the merits of this issue within my decision because both parties agree that the car was of unsatisfactory quality at the point of supply. Instead, I'll focus on what I think Tandem should do to put things right.

I've considered what the Investigator has previously set out, but I'm required to reach my own findings having reviewed the complaint independently. So, I've considered and set out what I consider to be fair redress due to Mr H.

Fair usage

Tandem agreed to rejection in August 2024 and the agreement was unwound in October 2024. When doing this, they applied a fair usage charge, calculated at 25p per mile, which they say to be industry standard. Therefore, as Mr H had travelled 7,078 miles in the car the total charge was £1,769.50. This exceeded the total payments made by Mr H by £149.75.

The CRA says that a finance company is entitled to make a deduction for fair use. It doesn't set out what rate or method should be used. And there's no reference to the fair usage charge in the hire purchase agreement itself. Our approach is to look at all the circumstances and decide what's fair and reasonable. Whilst a mileage charge of 25p per mile doesn't appear excessive in itself, I don't think that such charge is fair and reasonable in the circumstances of this complaint.

Mr H had the car for 11 months before it was rejected. He covered 7,078 miles during this time, which is what I'd consider average mileage. As Mr H did have use of the car, I think it fair that Tandem retains the monthly payments made under the contract. But I don't think it should impose a higher charge than the total of those monthly payments in relation to the usage of the car.

Tandem should therefore refund the £149.75 remaining balance on the agreement, so there is nothing further for Mr H to pay. If Mr H has since paid the remaining balance, this should be paid to him with added interest.

Payment refund

In July 2024, the car was inspected by an independent engineer, who confirmed Mr H had covered 7,078 miles since inception at that time. This figure was used by Tandem to

calculate the fair usage charge after the car was collected in September 2024. Mr H confirmed he didn't use the car following the independent inspection as he'd been advised of the risk of causing further damage.

I asked Tandem to confirm the mileage on the car at the point of collection, but I haven't received any evidence of this. So, based on the evidence that is available, I consider, on balance, it more likely than not that Mr H didn't use the car from 8 July 2024 onwards. And having reviewed the findings of the independent engineer, I'm satisfied it was reasonable for Mr H to not use the car, given his understandable concerns about the risks of a break down due to the issues identified with it.

I can see Mr H made a payment towards his agreement in August 2024. As Mr H wasn't using the car due to it being of unsatisfactory quality when it was supplied, I think it's reasonable that Tandem refund this payment, plus interest.

Interest

To reflect the time Mr H was without access to the sums of money mentioned above, interest should be added to each of the refunded amounts from the date of each payment until the date of settlement. Interest should be calculated at 8% simple per year.

Distress and inconvenience

It's not disputed that being supplied with a car that wasn't of satisfactory quality caused Mr H considerable distress and inconvenience. Tandem has offered to pay him £300 compensation in recognition of this, which I consider to fairly reflect the impact caused, which Mr H has accepted.

Neither Mr H or Tandem responded to my provisional decision with any further comments or submissions for my consideration.

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.

As there are no further submissions for me to consider in relation to this matter, I see no reason to alter the conclusions reached in my provisional decision.

That is, Mr H was supplied with a car that wasn't of satisfactory quality and Tandem didn't do enough to put things right – and they should now do so as set out above.

My final decision

For the reasons set out above, my final decision is that I uphold Mr H's complaint about Tandem Motor Finance Limited and direct them to:

- Refund £149.75 of the fair usage charge;
- Refund one monthly payment to reflect loss of use;
- Pay 8% simple yearly interest on all refunded amounts paid by Mr H - calculated from the date Mr H made each payment to the date of the refund†;
- Remove any adverse information recorded on Mr H's credit file in relation to this credit agreement, and 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 Tandem considers that tax should be deducted from the interest element of my award, they should provide Mr H 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 H to accept or reject my decision before 28 July 2025.

Nicola Bastin
Ombudsman