DRN-5702667

The complaint

Miss K complains about the quality of a car supplied to her on finance by Hyundai Capital 'UK Limited ('HC').

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.

In January 2023 Miss K took out a conditional sale agreement with HC for a car. However, in December 2024 she contacted it to say there was a problem with the car's alarm system. Namely that it didn't activate when there were two separate break ins occurring about two weeks apart while the car was parked outside her home overnight.

HC did not uphold the complaint. In summary, it said that because of the time which had elapsed since the supply of the car, it was for Miss K to prove the car was inherently faulty. It advised her to get an independent expert report to show this.

Miss K escalated the matter to this service. While the matter was at this service:

- HC confirmed the dealer had inspected the car and not found a fault with the alarm;
- Miss K obtained an inspection report from a third party garage ('Garage A') confirming that the alarm system was '*unresponsive under standard conditions'* and that when there were attempts made to simulate a break-in the lights did not '*consistently engage'*.

HC offered to pay for another inspection report to provide further information on the issue. It indicated Garage A would not have the means to carry out all the necessary checks on the car's security and software. However, Miss K would not agree to this and considered her report sufficient.

Our investigator thought that Miss K should have the right to reject the car and get her deposit back and compensation for distress and inconvenience.

However, HC did not agree. In summary, it has asked for an opportunity to carry out a further inspection, and a chance to repair any fault.

I issued a provisional decision on this case which 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.

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. HC 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, freedom from minor defects, safety, and durability can be aspects of the quality of goods.

HC supplied Miss K with a brand new car. I think it's fair to say that a reasonable person would expect the level of quality to be higher than a second-hand, more road-worn car. And that it could be used – free from defects – for a considerable period of time.

Miss K said the first break in attempt was at the end of September 2024 which is about 20 months after getting the car. In the absence of misuse I don't think a reasonable person would expect an alarm system (such as electrics and sensors) to be faulty this soon into a car's life. So if the presence of a fault with the alarm system were confirmed – I consider the car would likely be considered of unsatisfactory quality in the circumstances.

However, the issue here is that the parties disagree as to whether the alarm system is actually faulty or not. I turn to this now.

Miss K has provided testimony to say that the alarm did not sound when the door was opened on two separate occasions. She has suggested the driver side door was forced open with a device. Miss K's testimony is compelling and persuasive. However, I note there appears no police report or pictures of damage to show that the door was forced open on either occasion. Furthermore, the CCTV evidence of both break-ins is inconclusive on this matter from what I can tell.

So I turn to any expert inspections for further guidance. In doing so I note the main dealer has confirmed that it found no fault with the car on inspection. But Miss K's local garage says it tested the alarm and simulated a break in and found the alarm was not coming on consistently and suggested a possible sensor failure, wiring fault or malfunction within the control module. It quoted for the relevant work. I understand no work has been done to date on this. I note the report also confirmed minor body damage and scratches on the driver door – which would arguably be consistent with a forced attempt to open the door with some kind of tool or device.

I understand that HC has discredited Miss K's report by indicating that as it hasn't been carried out by a main dealer the relevant diagnostics have not been completed. However, I

note that:

- *The report is reasonably detailed and credible and from what appears to be an established local garage and MOT centre.*
- *Testing a car to see if the alarm works properly (and on a consistent basis) does not appear to require specialist diagnostic equipment in itself – even if ascertaining the cause of said fault might.*
- *The main dealer appears to have provided little detail of the investigation it carried out when it looked at the car in the first place. And less than Garage A. Furthermore, it does not appear to have carried out any specialist diagnostics. So I am not sure what it would do differently now were it to have further opportunity, and I question why it wouldn't have taken those actions initially if these were necessary.*
- *In its 'Final Response Letter' to Miss K's complaint HC specified an acceptable report would be from a 'qualified technician, or motoring organisation'. It didn't explain that the report had to be from a main dealer or otherwise. So I don't think Miss K has acted unreasonably in obtaining the report from a local technician in the form of Garage A.*

So all in all I think it fair to give more weight to Miss K's report here. Which on balance shows the car is faulty. Furthermore, when considering what is fair I note there has been no persuasive information to show Miss K is likely responsible for a fault with the alarm. And noting the car was only 20 months old (with reasonably low mileage) when the problems were first identified it would suggest that any issue is more likely due to an inherent fault than reasonably expected wear and tear.

I understand if an inherent fault is identified HC is able to repair the car under the CRA in accordance with Miss K's right to repair. HC has one opportunity to do so before Miss K can reject the car. It could be argued that the dealer's failure to identify and fix the issue was an attempt at repair by HC. However, even if this were not the case any repair attempt needs to be carried out without causing significant inconvenience to the customer. Here, I am not persuaded Miss K will not be put to significant inconvenience – noting that HC still disputes that the car is faulty and wants it inspected again. I think avoiding further delays is of particular importance here noting the distressing circumstances surrounding the fault. And I think it would be unfair to prolong matters any further. In the overall circumstances here I don't consider it unfair that Miss K can elect to her final right to reject under the CRA.

Similarly to our investigator I consider it fair that HC take back the car, end the finance agreement (ensuring no adverse information remains on the credit file in relation to this) and refund Miss K's deposit. However, the investigator did not take into account that part of the deposit was a dealer contribution of £1,250. This should not be refunded to Miss K as she didn't pay it out in the first instance. Instead she should get her £5,000 cash deposit back.

I understand Miss K had been using the car normally but says she has not driven it for many months due to the trauma of the break-ins. I am very sorry to hear about the impact of the incidents on Miss K. While there isn't clear evidence showing Miss K has entirely ceased using the car, I don't consider it fair to hold HC responsible for this from a causation perspective in any event. Ultimately, it is not HC's fault Miss K's car was broken in to – and while issues with the reliability of the alarm would no doubt cause worry while the car was left overnight, it was still drivable.

However, I do accept that concerns about the alarm system would have been a source of general distress and added to Miss K's concern over the situation. And trips to the dealer and Garage A to get matters investigated would have also caused a level of inconvenience. This isn't a science but in considering an appropriate compensation award I have factored in what our website says about our approach to distress and inconvenience. What occurred with the alarm fault has caused more than the usual distress and annoyance from everyday life. And it has gone on for some time now. I don't think HC is completely responsible for how long it has gone on – Miss K could have sourced a report sooner than she did (noting she identified the fault to HC almost two years after supply). And I think fundamentally the overriding distress caused by this situation arises from persons breaking into the car. But I also think HC should take some responsibility for the overall distress and inconvenience as a result of it supplying goods which appear, on balance, to be inherently faulty. I consider the investigator's suggestion of £300 to be a fair award in the circumstances here.

I note Miss K appears to have taken out GAP insurance with the finance. However, it doesn't appear the insurance policy is paid for via the finance agreement. If this is the case then HC should pay Miss K any additional costs she incurs as a result of cancelling the GAP policy before its end – such as any cancellation fees or post settlement premiums she has paid which are not refunded. Miss K can provide HC appropriate proof of these amounts.

I don't have evidence to show Miss K paid for the expert diagnostic report she obtained from Garage A – so I am not directing HC to refund that. But if Miss K provides evidence of this then it should fairly be refunded too.

My provisional decision

I uphold this complaint and direct Hyundai Capital UK Limited to:

- *take back the car without charging for collection;*
- *end the finance agreement ensuring Miss K is not liable for rentals after the point of collection (it should refund her any overpayment for these if applicable);*
- *refund the £5,000 deposit;*
- *refund any costs as detailed above pertaining to the GAP insurance policy (and if relevant the expert diagnostic);*
- *pay 8% simple yearly interest on any refunded amount from the date of payment to the date of settlement;*
- *ensure that there is no adverse information on Miss K's credit file as a result of ending the finance agreement early; and*
- *pay Miss K £300 compensation for distress and inconvenience.*

If HC considers it should deduct tax from the interest award it should provide Miss K with a certificate of tax deduction.

Miss K accepted the decision and brought the following to my attention:

- Letters from the police showing Miss K reported the two break-ins
- A receipt showing Miss K paid £156 for the expert diagnostic
- GP report showing the impact of the break-ins on Miss K

HC did not respond to my decision.

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.

I thanks Miss K for providing more information. The receipt is useful in showing the cost which HC should reimburse. And the police letters – while not clarifying the nature of the break-ins underline the factual background of the case.

I am sorry to hear about the impact of the break-ins and interaction with HC on Miss K from her medical records. I recognise that HC's actions have contributed to her distress. However, I still fundamentally conclude that the overriding distress caused by this situation arises from persons breaking into the car and not the actions of HC. Therefore, I do not propose to change my compensation award here.

Putting things right

As set out below.

My final decision

I uphold this complaint and direct Hyundai Capital UK Limited to:

- take back the car without charging for collection;
- end the finance agreement ensuring Miss K is not liable for rentals after the point of collection (it should refund her any overpayment for these if applicable);
- refund the £5,000 deposit;
- refund any costs as detailed above pertaining to the GAP insurance policy and £156 for the expert diagnostic;
- pay 8% simple yearly interest on any refunded amount from the date of payment to the date of settlement;
- ensure that there is no adverse information on Miss K's credit file as a result of ending the finance agreement early; and
- pay Miss K £300 compensation for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 15 August 2025.

Mark Lancod
Ombudsman