

The complaint

Mr S has complained about the quality of a car provided on finance by Tandem Motor Finance Limited.

What happened

Tandem supplied Mr S with a used car on a hire purchase agreement in October 2023. The cash price of the car was around £6,700 and it had covered around 98,900 miles since first registration in September 2014. The agreement required payments of around £150 for 59 months and a final payment of around £160. The total amount payable was around £9,000.

Mr S said that due to constant issues with the car he'd been unable to use it properly. He said that the dealer agreed to make repairs, but then didn't do anything. He said the dealer agreed to repair the exhaust but then paid him £200 instead. He said he didn't agree to pay half of the repair, he agreed to pay towards the replacement of the whole exhaust rather than a partial repair.

Mr S said that he told the broker on many occasions that the selling dealer would not rectify the problems with the car, so he wanted to reject the car and unwind the finance agreement. He said he first tried to do this within the first month. He complained to Tandem in February 2024.

Tandem said there was an agreement between Mr S and the dealer for a contribution of £200 to be made towards repairs to the exhaust, but this was not completed by Mr S. It commissioned a report carried out by a third party I'll call Expert A, which it said showed that the exhaust silencer was not in place, and there were low oil levels. It said that arrangements were made to collect the car to make the repair, but it was not available. It said that Mr S needed to rearrange the collection of the car for the repair to take place. It went on to say that repairs to the clutch were carried out by an unauthorised third party and it wouldn't cover these costs. Tandem said it would pay Mr S £100 for the distress and inconvenience caused.

Mr S referred his complaint to the Financial Ombudsman. An investigator here considered the complaint. She thought that a repair was a suitable remedy, but that Mr S should keep the £200 and the further payment of £100 was fair. She didn't recommend any other repair costs were covered by Tandem.

Mr S disagreed. In summary he said:

- He contacted the broker to exercise his short term right to reject within the first 30 days
- This was at the same time he was due to pick up the car from the dealer when the issues should have been resolved
- He was supposed to receive a call back from the broker which never happened
- Tandem said he needed to give the broker eight weeks to respond.
- He said oil leaks had been repaired – but didn't have the invoices
- Paintwork on the rear of the car was repaired as a result of an insurance claim

- Steering wheel controls, paintwork on the front of the car and exhaust had not been resolved
- The dealer had agreed to a repair to the exhaust, but later changed its mind and asked him to pay for half. When he refused, he said the dealer got aggressive and gave him £200 towards the repair. The dealer had the car for two weeks to make repairs and nothing was done.

The case was passed to me to make a decision. I issued a provisional decision which said:

In considering what is fair and reasonable, I need to have regard to the relevant law and regulations, regulators' rules including Consumer Duty, guidance and standards, codes of practice and (where appropriate) what I consider having been good industry practice at the relevant time.

I've read and considered the evidence submitted by both parties, but I'll focus my comments on what I think is relevant. If I don't comment on a specific point, it isn't because I haven't considered it, but because I don't think I need to comment in order to reach what I think is the right outcome. This is not intended as a discourtesy but reflects the informal nature of this service in resolving disputes.

Where the evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

Firstly, I'd like to explain that I have limited information about all the issues Mr S said he's experienced with the car. Tandem appear to have focused on the exhaust and some of the information in the expert report. It seems there might be other issues involving the steering wheel controls and clutch. If I've not referred to those specifically in the decision it's because I don't have sufficient information about what happened, or it might have happened since Tandem issued its final response.

Was the car of satisfactory quality when it was supplied?

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 (CRA) 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 CRA 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. In a case involving a car, the other relevant circumstances might include things like the age and mileage at the time of supply and the car's history.

The CRA 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.

When Mr S acquired the car in October 2023 the mileage was around 98,900 and the cash price was around £6,700. The car was first registered in September 2014, so by this stage it was around nine years old. It wouldn't be unreasonable to expect the car to be showing some signs of wear and tear, and that might include the underlying components.

There would be very different expectations of it than if it was a brand-new car. The car cost around £6,700 which is significantly less than if it was new. The price paid usually reflects the age and condition of the car. But it still needed to be of satisfactory quality when it was supplied.

The CRA sets out that goods which do not conform to the contract at any time within the period of six months beginning with the day on which the goods were delivered to the consumer, must be taken not to have conformed to it on that day. Unless it's established the goods did conform to the contract on that day or that the application is incompatible with the nature of the goods or with how they fail to conform to the contract.

As a starting point there would need to be some evidence of what the fault was. And secondly, that the fault renders the car of unsatisfactory quality.

Considering the description of the faults, and the age and mileage of the car, I think it was reasonable for Tandem to arrange an expert report into the car's condition. When something goes wrong with a car it isn't automatically something that the finance provider is responsible for. Sometimes the underlying components of a car suffer wear and tear which might mean that they come to the end of their serviceable lifespan during the course of a finance agreement. The report from Expert A was carried out in March 2024, and the mileage was around 103,160. The report summarised the concerns:

"There is no doubt that the vehicle bodywork has multiple areas of concern, none of which would prevent the vehicle meeting minimum MOT standards, however the vehicle is currently not fit for regular use on public highway and is not road legal due to the missing exhaust.

The system will require replacement to restore the vehicle to a road legal condition, assuming the vehicle owner statement is correct that the exhaust system was condition at point of sale, led us to conclusion the vehicle was not sold in a condition that met all the criteria laid out in section 75 of the road traffic act.

The poor overall general condition of the bodywork in conjunction with evidence that the vehicle is using excessive quantities of oil all leads us to the conclusion that the vehicle was not sold in a satisfactory condition at point of sale.

To return the vehicle to an acceptable condition may exceed the vehicles value therefore it is our recommendation that the vehicle be returned to the sales agent".

The report was written by an independent expert with details of their credentials and a statement to the court, so I find it persuasive. Based on the evidence I'm satisfied the car wasn't of satisfactory quality when it was supplied.

What remedies are available under the CRA?

I have to point out that I have limited information from both parties here on what happened prior to Tandem's involvement in the complaint. I can see that Mr S emailed Tandem and explained his interaction with the dealer:

"I've attached a report we had done when we got the car. I can also send photos of the paint work they said they would repair but didn't. They had the car for two weeks to fix the issues and their excuse was they didn't have time to fix them. They acknowledged that they still needed doing as they told us to take the car to the mechanics they use to have the issues fixed. I could possibly get the report from the AA as they transported the car to the garage. The garage had to record of the car being booked in with them and was only after they

rang.... They couldn't fit the car in that day so advised us to get... to rebook the car in with them for a later date. Had no communication back from the dealer since."

I've not been given a copy of this report, but Mr S appears to have told Tandem that repairs were already attempted, or at least that the dealer had an opportunity to repair the car.

Where goods don't conform to the contract because of a breach of terms relating to their quality consumers are able to exercise their short term right to reject. In this case, section 22(3) of the CRA says:

"The time limit for exercising the short-term right to reject (unless subsection (4) applies) is the end of 30 days beginning with the first day after these have all happened—

- a) ownership or (in the case of a contract for the hire of goods, a hire-purchase agreement or a conditional sales contract) possession of the goods has been transferred to the consumer,*
- b) the goods have been delivered, and*
- c) where the contract requires the trader to install the goods or take other action to enable the consumer to use them, the trader has notified the consumer that the action has been taken."*

The CRA also says if the consumer requests or agrees to the repair or replacement of goods, the time limit would stop running for the length of the waiting period.

Mr S said that he also tried to reject the car quite soon after it was supplied, presumably after repairs hadn't been forthcoming. He's said that he tried to do this within the first 30 days with the broker. I don't have clear evidence about this because I'm not looking into a complaint against the broker. The broker isn't responsible for a complaint about the quality of the car, although it seems to have been quite involved in this complaint for some reason.

And Tandem isn't responsible for post-sale issues with the broker, although it is responsible for supplying a car that was of satisfactory quality. I have asked Tandem about any evidence it has of Mr S' contact with the broker, but it referred back to its contact notes which don't include what happened prior to February 2024. But Mr S' testimony, which is also valuable evidence, has been consistent throughout. Even in the absence of clear information about when he tried to exercise his short term right to reject, and with whom, I think there are other reasons why rejection is the most appropriate remedy here.

Mr S maintains that he'd asked for a repair, but the selling dealer had refused to do this. A repair is usually the first suitable remedy under the CRA, after the short term right to reject. I think it is apparent that the dealer had the car for repairs which didn't come about, and later the broker arranged for the car to be collected and repaired in around May 2024. Mr S said he wasn't suitably informed about these arrangements, and the car wasn't available. I've thought about whether he was suitably informed and can see he's provided us with emails which he received, which set out the date the car will be collected. He's also said the car was undergoing a repair to the clutch at that time so wouldn't have been available and nobody turned up at his house. But for the purposes of this decision, I don't think getting into a debate about whether the car should have been available is necessary. That's because I don't think a repair was a suitable remedy in the particular circumstances of this case, even though it is one of the remedies set out in the CRA. I'll explain why.

Expert A said that returning the car to a satisfactory condition might be disproportionate considering how much it might cost, and it should be returned to the selling agent. And considering there was an oil leak I also have concerns about whether there might be other existing damage to the internal parts of the car that hadn't yet been detected. I've also

explained earlier that it seems that the dealer has already had an opportunity to repair, which didn't come about within a reasonable amount of time.

The CRA sets out that (outside the first 30 days) if the car isn't of satisfactory quality, there's been a repair attempt, and the car still doesn't conform to the contract, Mr S should be able to reject it. Mr S tried to reject the car, but it seems a further opportunity to repair was put forward as the only remedy instead. I think it would be unfair to force Mr S to accept the repairs because he seems to have validly tried to exercise a right to reject, either short term or otherwise. So, I think Mr S should have been and should now be able to exercise his final right to reject the car.

What was the arrangement for the payment of £200?

Tandem said that Mr S was supposed to get the exhaust repaired and that was why he was given £200. But I'm not persuaded that is an accurate account of what happened. As I explained I have very limited information about what happened prior to Tandem's involvement. Mr S explained to Tandem what the arrangements were with the dealer:

"The exhaust was going to cost around £400 to repair. What I said to them was, would it not be better to replace the whole exhaust as a new one would only cost between £450-£550 and I would add the extra £50-£150. They said no and would repair it. I got a phone call from them saying a custom backbox was going to cost £400 and they wanted me to pay half. I didn't offer to pay half of the repair I only offered to put money towards a new full exhaust and that's not what they were doing. I've still got his £200 which I've told (the broker) over and over again I will return that if I return the car as I'm not putting over £300 into a car that I want to return. The wife even asked them for his bank details in January time I think but didn't get a reply."

I'm not yet persuaded that Mr S agreed to undertake his own repairs for the payment of £200. I think this is unlikely given he'd just taken possession of the car so there was no incentive for him to have to arrange his own repairs at his own expense. His email here demonstrates a different sort of arrangement. So, I've given consideration to what should happen with the £200 which Mr S has sensibly said he's kept to one side. I'll go on to explain later what I think should happen with this.

Deduction for use

The CRA says a deduction can be made from the refund to take account of the use the consumer has had of the goods in the period since they were delivered. It doesn't set out how to calculate fair usage and there's no exact formula for me to use. There's not an industry standard mileage figure. The mileage in October 2024 was 106,254 and Mr S confirmed the current mileage is 111,543. So, Mr S has been able to cover around 12,600 miles in the car overall. Tandem might argue that Mr S shouldn't have carried on driving the car given the content of the report. But as a reminder, this has only come about because the car was not of satisfactory quality when it was supplied. It seems that Mr S had little choice considering he was still required to keep up his payments and doesn't seem to have been given the support that he should expect. As a starting point, in the particular circumstances of this case, I think the monthly repayment towards the hire purchase agreement is a reasonable figure to use for a month's worth of use of the car. I think Tandem can retain the monthly payments Mr S made in recognition of the use he's had of the car up until it is collected.

Consequential losses

I've seen several references to repairs being made by Mr S to the clutch, and other items on

the car. But I don't have sufficient evidence any issues with the clutch meant the car wasn't of satisfactory quality. I also don't have any evidence of any other consequential losses that Mr S might have suffered. The report doesn't indicate that other repairs were needed, and I also have to consider that Mr S has carried on using the car because there wasn't a reasonable alternative to keep mobile when he wasn't able to reject the car, and his family circumstances meant that the car was essential. Mr S appears to accept that he's paid for some maintenance to the car to keep it on the road and it passed an MOT in October 2024, albeit with advisories including the exhaust. But I'm not currently intending on awarding any consequential losses because I haven't been given sufficient evidence.

Both parties can provide further information about this in response to the provisional decision. If I'm persuaded that there has been a consequential loss, I may make a direction to make an award in the final decision.

Compensation

No amount of money can change what's happened. But the compensation I'm recommending is in line with what's awarded where the impact of the breach has caused considerable distress, upset and worry – and/or significant inconvenience that needs a lot of extra effort to sort out. Mr S has had several issues to deal with, a lot of back and forth between the parties and poor service from Tandem. Tandem said it paid £100 to Mr S. But I think an additional £200 compensation is suitable in the circumstances because it's had that sort of impact on Mr S. Mr S has already been given £200 by the dealer towards a repair so I'm intending to say that he can keep that, instead of a further payment being made to him by Tandem.

Considering all the circumstances, I think the steps I've set out are a fair and reasonable way to resolve the complaint.

Mr S agreed with the provisional decision. He clarified that he hadn't yet been paid the £100 as he didn't accept Tandem's response. Tandem did not reply to the provisional decision after a short extension.

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'd like to thank Mr S for responding to my provisional decision and clarifying he hadn't yet been paid the £100.

On the basis I don't consider I've been provided with any further information to change my decision I still consider my findings to be fair and reasonable in the circumstances.

Therefore, my final decision is the same for the reasons set out in my provisional decision.

My final decision

My final decision is that I uphold the complaint and direct Tandem Motor Finance Limited to:

- end the finance agreement ensuring Mr S is not liable for monthly rentals after the point of collection (it should refund him any overpayment for these if applicable)
- take the car back (if that has not been done already) without charging for collection
- Pay £100 compensation, allowing Mr S to retain the £200 already paid
- Remove any adverse information reported to the credit reference agencies

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 18 September 2025.

Caroline Kirby
Ombudsman