DRN-6055417

The complaint

Mr M is unhappy with the car supplied under the hire purchase agreement with Tandem Motor Finance Limited (TM).

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

What happened

In January 2024, Mr M entered into a hire purchase agreement with TM to acquire a used car. The car was first registered in October 2016. At the time of supply, it had travelled approximately 73,795 miles. The total cash price of the car was £13,171. There were 59 monthly payments of £367.15 and a final monthly payment of £377.15 (including the Option to Purchase Fee).

Mr M said the car was working fine for the first day or so after supply, but then the engine light came on. He contacted the supply dealer by phone. At first, they agreed to take the car back, but they were asking him to drive it back to them. Mr M said this was not possible as the supplying dealership was a five-plus hour drive for him. As he was getting nowhere with the supplying dealership, and the car started to form a subtle noise, Mr M took it to a third-party shop. That shop recommended that he take it to an engine specialist. As such, in May 2024 Mr M took the car to another third-party garage. That third party garage diagnosed the car and found that there was a suspected crank failure. This is because when they checked the oil filter, they found evidence of shell material in the filter. And they said that further diagnosis via the star machine showed a low oil pressure fault. Their conclusions were that the car would need a new engine and that Mr M should stop driving the car. With this information, Mr M raised a complaint with TM.

In June 2024 TM wrote to Mr M and said that Mr M had travelled around 5,500 to 6,000 miles in the car since its supply. As such, they instructed an independent inspection to be completed to determine whether the faults that he has raised were present or developing at the point of supply. In that correspondence they quoted parts of the independent inspection. The independent inspection found that there was an underlying issue with oil pressure, which the engineer believed induced the engine seizure. The report stated that there was fresh oil around the oil filler cap which, they said, suggested that the car has been ran with insufficient oil in the sump, and someone has topped up the oil prior to their arrival. In addition, the fault codes also suggested the car had oil pressure issues. In their opinion, the engine failure could not have been present at the point of supply as car could not have been driven for 4,000 miles, or thereabout, since the date of sale with such issues. The report also said that it is the car owner's responsibility to check the oil levels on a regular basis, as the car of this age and mileage can use up to 1.2 litters of oil per a thousand miles. As such, TM said that based on these findings, they could not uphold Mr M's complaint.

Mr M remained unhappy with the above, so he referred his complaint to the Financial Ombudsman Service (Service).

Our investigator looked at Mr M's complaint, under a different reference number, and originally did not think the complaint should be upheld.

Following this Mr M provided more evidence to TM and to us. He said he obtained a full technical inspection report from a specialist garage following a complete engine rebuild. He said the report reveals the engine had severe pre-existing damage including a failing oil pump, conrod damage, and metallic debris. Most critically, the car was found to have no Diesel Particulate Filter (DPF) which was removed years ago and the exhaust system welded over. Mr M said this is not only illegal under UK emissions law but also indicates the car was not roadworthy and unsellable at the point of sale.

The investigator considered all the evidence that had been provided and was of the opinion that the complaint should be upheld. The investigator was of the opinion that a fair and reasonable remedy was for TM to pay for the needed repairs to the car. The investigator also proposed and explained what the remainder reasonable redress should look like.

TM did not agree, and as such 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.

I am very aware 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. I have focused on those aspects that are central to me, reaching what I think is the right outcome. This reflects the informal nature of our service as a free alternative to the courts.

What I need to decide in this case is two aspects. The first is whether the car Mr M acquired was misrepresented to him by TM and/or their agents. To make a finding of misrepresentation, I must be satisfied that Mr M was given a false statement of fact that led him to enter into a contract he otherwise would not have entered. The other aspect I need to look at is whether the car was of satisfactory quality when it was supplied to Mr M.

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

If the car was supplied to Mr M with a removed DPF, this would make the car illegal to drive on UK roads. As such, I would consider the car to be misrepresented at the point of supply, if the absence of the DPF was not disclosed to him. This is because when a car is supplied as a standard road car, there is an implied description that it has all the emission equipment required by law. If a missing DPF was not disclosed to Mr M, this might have induced him to

enter into the finance agreement to acquire the car based on a false assumption that the car was road legal. Following on from this, a relevant point to answer is whether the DPF was removed from the car before or after supply; And, if it was removed before supply, did TM, or their agents, make Mr M aware of this.

TM has not provided any evidence regarding the DPF. Mr M has provided a report from the third-party garage that did the repairs on that car. From that report I can see that it states that the DPF system had been physically removed, and the exhaust system professionally welded in its place. The report states that, based on the condition and aging of the welding, they estimate this modification was performed prior to supply of the car by TM to Mr M. It also states that the filter that goes along with the DPF was never removed creating a potential fire hazard and the DPF system was not even properly modified to compensate for the missing filter. Moreover, the report also said that, over time, soot build-up can potentially occur leading to overheating or even potential fires. As such, based on the information available I think on balance, the DPF was removed before the car was supplied to Mr M and I have not seen enough evidence to be able to say that Mr M was made aware of this prior to supply. As such, I think the car was misrepresented to Mr M and it was not as described. Furthermore, I think most likely, this led him to enter into a contract he otherwise would not have entered into. I think at minimum Mr M wanted a car that is road legal and not one with a missing DPF.

The remedy for misrepresentation is usually rescission of the contract to put the consumer back in the position they would have been in, had it not been for the false statement. Under the CRA Mr M would be entitled to a rejection, repair, replacement, or a price reduction.

I am aware of the legislation and case law surrounding misrepresentation and rescission of contract, and I have taken this into consideration. I have also taken into consideration what remedies Mr M would have available to him under the CRA. I do not think rescission or rejection of the car would be fair and reasonable remedies at this stage, considering the specific circumstances of this case. I say this because, as time has passed, the car has now been repaired and Mr M continued to use the car, putting further miles on it. Also, a full refund would be disproportionate and unfair to the business. Before I continue with what I think the most fair and reasonable outcome should be, I have also considered that, most likely, the car was of unsatisfactory quality because of engine issues. I'll explain below.

In Mr M's case the car was more than seven years old, with a total cash price of £13,171. It had travelled around 73,795 miles. As such, the car 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. With second-hand cars, it is more likely that parts will need to be replaced sooner or be worn faster than with a brand-new car. Hence TM would not be responsible for anything that was due to normal wear and tear whilst in Mr M's possession. However, given the age, mileage and price paid, I think it is fair to say that a reasonable person would not expect anything significant to be wrong shortly after it was acquired.

The CRA sets out that Mr M 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 M would not be able to retrospectively exercise his short term right of rejection at a later date.

The CRA does say that Mr M would be entitled to still return the car after the first 30 days, if the car Mr M 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. This would be available to him if that repair had not been successful.

First, I considered if there were faults with the car.

From the independent inspection, commissioned by TM, I can see that the car had an underlying issue with oil pressure, which the engineer believed induced the engine seizure. The fault codes reported also suggested the car had oil pressure issues. The third-party garage that did the work on the car also said that it needed a full engine rebuild, including replacement of damaged internal components. That garage also replaced the faulty oil pump, turbocharger, and reinstalled the missing DPF system.

Based on all the above, I think the car was, most likely, faulty. However, just because the car was faulty does not automatically mean that it was of unsatisfactory quality when supplied. As such, I have considered if the car was of unsatisfactory quality when it was supplied to Mr M.

I know that the independent report commissioned by TM said that there was fresh oil around the oil filler cap which, as they said, suggested the car had been ran with insufficient oil in the sump, and was topped up by someone prior to their arrival. In their opinion, the engine failure could not have been present at the point of supply as car could not have been driven 4,000 miles, or thereabout, since the date of sale. As such I have taken this into consideration, but I have also given thought to the fact that this independent report was inconclusive. I say this because at the end of the report the engineer said that, to confirm their opinion that the engine seizure had been induced by a lack of maintenance by the current car owner would require the engine to be stripped. Therefore, I have also considered the report that was provided by Mr M from the third-party garage that stripped the engine and did the repairs. That garage had the car since November 2024 and the report was completed on 18 April 2025.

From that report I can see that the car had severe internal engine damage, whereby a connecting rod (conrod) was found to be faulty. The car had a failed oil pump which had seized. It said that the mechanism appeared dated, suggesting it was likely failing prior to Mr M's acquisition. The document stated that this failure is a primary contributor to the engine knocking and subsequent internal damage. The engineer of that report also stated that, due to the internal engine failure, metallic debris (shell material) had potentially contaminated the turbocharger, so it was replaced as a precaution during the rebuild. At the end, the report from that third party garage concludes that, in their professional opinion, the car was not of satisfactory quality or fit for purpose at the point of supply. The document explains that the car suffered from significant pre-existing mechanical defects, including a failing oil pump and engine damage which they said manifested fully within the 5,000 miles Mr M had driven the car for. Based on all this information it seems that, most likely, the car was of unsatisfactory quality at the time of supply.

I know TM told us that this third-party garage had a vested interest in the car because they are the ones that did the repairs. As such, TM feels the independent report they commissioned had no vested interest in the car, so they said they stand by the conclusion of the initial independent report. However, I considered that it is fair and reasonable to rely on third party garage report as the independent report was inconclusive and said that, to confirm their opinion that the engine seizure has been induced by lack of maintenance by the current car owner would require the engine to be stripped. Given the third party did strip the engine, they would have more information available to them when assessing the situation. I also considered that TM had ample time to present the third-party report for comment to the engineer that did the independent inspection and that TM chose not to do this. I think TM were given an opportunity to do more to dispute the findings of the third-party

garage, but they chose not to. This combined with the fact that Mr M reported issues with the car almost immediately after supply (within weeks) suggests it is not unreasonable for me to now rely on the findings from the third-party garage.

Based on all the available evidence, and what I mentioned above, I think, most likely, the car was not of satisfactory quality at the time of supply. This is because, based on the age, price, and mileage of the car, I do not think the goods supplied were as described. This is due to the DPF being removed, and the car being, most likely, of unsatisfactory quality, as the faults with the engine were most likely present or developing at the time of supply.

Mr M wanted to reject the car within the first 30 days after supply because of the issues with the car. However, I do not think that would be a remedy that would be fair and reasonable to either side at this moment in time. I say this because the car now had repairs completed, including making the car road legal by reinstating the DPF system, which seem to have resolved the issues. Plus, Mr M continued to use the car putting further miles on it. As such, I think a more fair and reasonable option would be for TM to be responsible for the costs of the repairs completed. They should also pay and refund Mr M for the costs he directly incurred because of the needed repairs. I will detail these now.

Mr M has been able to use the car while it was not broken or getting repaired, so I think it is reasonable he pays for this use. As such, TM should refund any payments Mr M made from November 2024, when he could no longer use the car, until it was repaired and returned to him in May 2025.

TM should refund any money Mr M paid for the repairs and parts the car needed, for which he provided receipts/invoices to our service. This consists of £4,365 to the third-party garage, £256.39 for the turbo charger, and £496 he paid for the DPF.

TM should also add interest to the refunded amounts, from the date of each payment made by Mr M until the date of settlement. Interest should be calculated at 8% simple per year.

I have considered the impact the situation had on Mr M. I know this matter has caused him a lot of distress and inconvenience while trying to resolve it. He had to make the car available for inspections. Plus, he spent time arranging alternative transport. I think Mr M would not have experienced all this, had TM supplied him with a car that was of satisfactory quality and had the car not had DPF issues. As such, I think TM should pay Mr M a total of £200 in compensation to reflect the impact this had on him.

Mr M has told us that he was using taxis, trains, and hired a car occasionally to keep himself mobile. However, as I'm already saying that Mr M is not responsible for any monthly contractual payments when he had no use of the car, I do not think it would be reasonable for me to ask TM to refund the taxi, train, or hire expenses Mr M has incurred. When coming to this decision, I have considered that, in certain months, he would have spent less on alternative transport than his monthly payments, while in other months he would have spent more than his contractual payment on the finance agreement. Also, I have considered that Mr M could have done more to mitigate his losses by, for example, arranging car rentals instead of using a taxi which tends to be, on average, more expensive than car hire.

My final decision

For the reasons given above, I direct Tandem Motor Finance Limited to:

1. Refund any payments Mr M made from November 2024 when he could no longer use the car until it was repaired and returned to him in May 2025;

2. Refund Mr M £4,365 he paid to the third-party garage for the repairs, £256.39 for the turbo charger, and £496 he paid for the DPF;
3. Add 8% simple interest per year to the refunded amounts, from the date of payment to the date of settlement;
4. Pay Mr M a total of £200 compensation for distress and inconvenience caused;
5. Remove any adverse information recorded on Mr M's credit file in relation to this credit agreement.

If Tandem Motor Finance Limited considers that tax should be deducted from the interest element of my award, they should provide Mr M 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 M to accept or reject my decision before 18 February 2026.

Mike Kozbial
Ombudsman