

complaint

Mr D complains that Suzuki Financial Services Limited ("Suzuki") provided him with a different vehicle model than he'd agreed to and that they didn't tell him about the mileage limits on the agreement.

background

Mr D took receipt of a new car in May 2015. He financed the deal through a hire purchase agreement with Suzuki.

In November 2018 when he was selling the car to his daughter he realised that it wasn't equipped with Bluetooth. He reviewed the documentation and realised his car was an SZ2 model and not the SZ3 model he thought he had and that had been identified on the hire purchase agreement.

He also complained that he'd been told the mileage limit was 10,750 per year and not 10,750 over the term of the agreement. He says as the latter was applied he was forced to buy the car at the end of the agreement because the excess mileage charge made it too expensive to give the car back. So he complained to Suzuki.

They said there'd been an administration error and that the wrong model number had been put on the agreement. But they said the vehicle that had been ordered, and that Mr D had paid for, was an SZ2 model and not an SZ3. So he hadn't been overcharged. They also said that the total term mileage of 10,750 miles was clearly noted on the agreement and they asserted that Mr D had been prepared to go with that deal as he had always wanted to retain the car and by opting for a low term mileage. They said he had been able to benefit from a 0% package that wasn't available on higher mileage deals at the time.

But Mr D disagreed and he referred his complaint to this service where our adjudicator provided an opinion. She noted that the order form had been made out for an SZ2 model and the car's registration documents confirmed it was an SZ2 model. She noted that the order form price was the same as the price that had been financed in the hire purchase agreement so she didn't think Mr D had been overcharged for the car he had. She went on to consider what difference the wrong model being recorded on the finance agreement had made. She noted that Mr D hadn't noticed any issues for over three years and she thought that suggested he hadn't missed the Bluetooth he said he'd expected in the car and that it would be unreasonable to suggest Suzuki do anything about that now. But she did think they were responsible for the dealership's mistake when they acted as their agent and set up the hire purchase agreement with the wrong model number. She thought this had caused some distress and inconvenience for Mr D so she suggested that Suzuki pay him £50 in recognition of that.

An investigator at this service also provided an opinion about Mr D's mileage concerns. She thought the annual mileage limit was lower than what would be considered average mileage. She asked Mr D for a copy of his insurance document so she could see what mileage he'd insured himself to cover. But when Mr D didn't supply this she considered whether any other quotations had been generated when he set up the finance agreement. She noted that a quote had been generated for 21,500 miles. So she thought there was evidence Mr D had chosen a lower mileage as it was, in the long run, the cheaper option. She didn't think he'd been financially disadvantaged by the deal.

But Mr D disagreed. He said he wanted the car that was on the hire purchase agreement, the SZ3, and that it was unfair for Suzuki to impose mileage restriction terms that were in the hire purchase agreement if, on the other hand, they chose to ignore the fact that the model stated on the agreement had not been supplied. So he asked for a final decision by an ombudsman.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I agree with the views that have been provided and for similar reasons. Please let me explain why.

Where the information I've got is incomplete, unclear or contradictory, as some of it is here I have to base my decision on the balance of probabilities.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

Mr D acquired his car under a hire purchase agreement. The hire purchase agreement is a regulated consumer credit agreement and as a result our service is able to look into complaints about it.

misrepresentation

The relevant law says, amongst other things, that the car should not have been misrepresented to Mr D. So, if Mr D was told something that was false, and if that induced him to buy the car, then I'd ask Suzuki to do something about it.

There's no dispute that the hire purchase agreement refers to the wrong model of car but Suzuki say that was an innocent administration error and the car Mr D was always financing was a SZ2. I'm persuaded that was the case. I say that because:

- the order form that was signed by Mr D in late April 2015, *before* he signed the hire purchase agreement on 11 May 2015, said it was an SZ2 model he was agreeing to buy
- the vehicle registration form confirms that's the car he received
- I think Mr D would have complained much sooner if the car wasn't equipped to the standard he was expecting

And regardless, I don't think there's evidence that the wrong model number on the hire purchase agreement induced Mr D to buy a car that wasn't one he wanted. He'd agreed to buy an SZ2 on the order form in late April and he didn't complain about any of the features of the car for three years. I think he would've done if the car he had didn't have the features he was expecting. So I don't agree that the inaccurate information recorded on the hire purchase agreement induced Mr D into making the deal.

I've considered whether Mr D has been disadvantaged as a result of the error that was made on the hire purchase agreement but I don't think he has been. Suzuki has explained that he

wasn't overcharged for an SZ2 and have clarified that the sales price was in line with the CAP value for the car at the time. I'm persuaded that that was most likely the case and I can see that the order form charges for an SZ2 are the same as those financed under the hire purchase agreement. So it seems Mr D wasn't charged for an SZ3 even though the hire purchase agreement referred to one.

But I agree with the adjudicator that Mr D has been inconvenienced by this experience. The records should clearly have been correct and if they were he wouldn't have had to spend time pursuing his complaint. In those circumstances I think it's reasonable to suggest Suzuki pay him £50 to compensate him for the inconvenience the actions of their agents in the pre-contract negotiations have caused him.

mileage

I think it's most likely that Mr D was aware of the mileage limitation and the cost of excess mileage. I say that because:

- Mr D's agreement says that the mileage allowance over the term of the agreement is 10,750 miles. He signed that agreement and I think it's reasonable to assume that he would have read it and raised any queries at the time. But he didn't challenge the mileage until much later.
- the presence of another quotation for higher mileage supports the view that Mr D was likely to have been aware of the various cost implications of keeping or returning a car and the impact that mileage would have on his monthly repayments.
- Mr D has explained he'd had similar agreements in the past and I think this would suggest he would probably have a good grasp of what to look for.
- Suzuki have explained that the low mileage option allowed Mr D to take advantage of a 0% package but agreements on higher mileages would not have given him this option. So I think this suggests a good reason for Mr D opting for the low mileage solution
- Mr D has not provided an insurance document and I've therefore not been able to establish whether the insured miles are in line with those on his agreement

So I'm not persuaded that the agreement was mis-sold to Mr D.

my final decision

For the reasons I've given above I uphold this complaint in part and tell Suzuki Financial Services Limited to pay Mr D £50 to compensate him for the distress and inconvenience their actions have caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 4 December 2019.

Phil McMahon
ombudsman

