

The complaint

Mr W's complaint is about Toyota Financial Services (UK) PLC trading as Redline Financial Services's response to dealing with problems he's had with a car it supplied to him under a hire-purchase agreement.

What happened

In November 2022 Mr W entered into a hire-purchase agreement with Redline so he could get a car from a dealership "D". The car was just under five years old at the time, with a cash price of £17,810 including a two-year warranty. Mr W paid a deposit of £5,000, with Redline providing the balance to be repaid with interest, over five years.

Within a few months of taking delivery of the car, Mr W started to experience problems with it. He took it to his local dealership and over the course of the following months several problems were identified that required rectification work to be carried out on the vehicle. Some of this was carried out under the warranty; other work was undertaken at Mr W's expense. This included servicing costs that Mr W says were supposed to have been carried out by D as part of the sales process.

In September 2023 Mr W raised his concerns with Redline, as he felt all of the problems he'd experienced suggested the car wasn't of satisfactory quality when supplied to him. Redline didn't accept Mr W's claim. It noted that D had recently attempted to repair the car and had offered to take back the vehicle from Mr W, less a deduction for use. In respect of the car's condition, Redline said that the car passed an MOT with no advisories just before it was supplied to Mr W, with a similar outcome on the MOT conducted in October 2023. Redline said that the car was subject to wear and tear issues and that addressing these was Mr W's responsibility under the finance agreement.

Our investigator felt the complaint should be upheld in Mr W's favour. She noted the obligations implied into the contract by the Consumer Rights Act 2015 ("CRA"); particularly that there was a duty to ensure the car was of satisfactory quality. Even taking into account the age and price of the car, the investigator considered the problems Mr W had experienced with the car – particularly a recurring problem with the engine timing system – were sufficiently persuasive that it was not of satisfactory quality from the point of supply.

The investigator didn't think it was fair that Mr W was out of pocket as a result of paying to fix those problems, or for the service that D should have carried out in the course of the sale. She found that some of the costs he'd incurred were in relation to wear and tear items such as the brake pads and shock absorbers. But overall she considered it appropriate that Redline reimburse a significant proportion of the money Mr W had paid to repair the car. In addition, she recommended that Redline pay Mr W £200 compensation in recognition of his distress and inconvenience.

Mr W still felt that the settlement should include the cost of replacement brake pads. And Redline didn't agree with the investigator's findings. It said the problems could be due to wear and tear, given the price, age and mileage of the vehicle. It again referenced the terms and conditions of the hire-purchase agreement in claiming this was Mr W's responsibility.

Redline noted that Mr W had declined to accept D's offer to buy back the vehicle, that he'd accepted repairs being carried out, and that because the car had a valid MOT at the point of supply, it couldn't agree that the car was not of satisfactory quality. It did, however, propose to pay Mr W the £200 recommended by our investigator.

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.

In its complaint submissions Redline asked that we pay particular note to its final response, issued to Mr W on 21 November 2023. Having done so, I find it contains a good deal of information about the work Mr W told it he'd had to have carried out on the car. He has provided itemised receipts for all of this work. Redline's response, however, appears to offer little in the way of substantive evidence to show why it concluded that this was more likely to be due to wear and tear rather than indicative of an underlying defect.

I might also have expected Redline's response to contain some reference to obligations it has under the CRA, if only to show how it has met those obligations. Noting that the letter references unsuccessful repair attempts on D's part, I consider that insufficient consideration has been given to any potential liability Redline might have as the supplier of the vehicle. Although the response references the terms and conditions of the agreement between the parties, Redline will no doubt be aware that the effect of the CRA is that the contract is to be read as including a term that goods will be of satisfactory quality.

While Redline has said that the car had a valid MOT at the point of supply, that isn't the correct test to be applied when determining whether it was of satisfactory quality. The lack of a valid MOT means a car is unroadworthy and might point to a lack of satisfactory quality in most cases. But the fact a car is deemed to have met at least the minimum legal standard doesn't really speak to whether it meets the test of satisfactory quality required by the CRA.

Guidance to the CRA is set out in its explanatory notes. These say that "*...the test of whether or not the quality of the goods is satisfactory is determined by what a reasonable person would consider satisfactory for the goods in question, taking into consideration all relevant circumstances including any description, the price and any public statements by the trader or producer or their representatives...*"

Given the history and evidence of issues Mr W had to address in this respect, I'm satisfied that he's provided enough to suggest that he has a valid claim. I'd expect all of this to suggest to Redline that a car that displayed this sort of repeat problem and potentially required such extensive work couldn't really be said to have been of satisfactory quality, even taking into account its age and mileage. I'm not persuaded that Redline has done enough to support the position it has taken in terms of its potential liability for that claim. So in rejecting the claim on the basis it has, I don't consider Redline has treated Mr W fairly.

It appears to be accepted that Redline's actions have caused Mr W frustration and inconvenience, and it's only right that it compensates him for this. The £200 our investigator proposed in this respect appears to me a fair sum.

Mr W has also had to pay out substantial amounts towards repairs of the car. Some of those costs are connected to issues that go along with running a car. The fact that the brake pads were worn close to the legal limit and that the shock absorbers needed replacing would be items one might reasonably expect to incur sooner or later when acquiring a used car.

But Mr W would not reasonably have expected to incur the service cost, given D's undertaking to carry out any servicing due at the point of supply. Further, I haven't seen anything that would lead me to conclude that the problems with the engine timing system or the tyre sensor are down to ordinary wear and tear. Under the CRA¹ Mr W is entitled to seek reimbursement of those costs, and I'm satisfied it's appropriate that Redline meets these parts of his claim – with interest.

I'm conscious that all concerned parties have noted that the issue with the engine timing remains a potential problem, and that Mr W might find himself paying out further money in future to address the issue. Mr W should be aware that accepting the settlement I'm proposing in this decision might affect any right he might have in future to reject the car or pursue any other costs under this head of claim.

My final decision

My final decision is that I uphold this complaint and direct Toyota Financial Services (UK) PLC trading as Redline Financial Services to take the following steps within 28 days of receiving Mr W's acceptance of this decision:

1. pay Mr W £2,288.60 as reimbursement of the costs I consider appropriate he receives for repairs and work carried out on the car
2. pay Mr W interest on the amount of any payments he made in relation to the repairs and work referenced in 1. at 8% simple annually, calculated from the date he paid each amount until the date it pays this settlement²
3. pay Mr W £200 in recognition of the distress and inconvenience he's been caused by the way it handled matters

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 5 June 2024.

Niall Taylor
Ombudsman

¹ Section 19 (9) to (11) of the Consumer Rights Act 2015 provides that a consumer is entitled to seek remedies other than the statutory remedies set out in the Act

² If Redline deducts tax from this interest, it should provide Mr W with an appropriate tax deduction certificate should he request one