

The complaint

Ms J complains that a car acquired under a personal contract purchase (PCP) agreement with Toyota Financial Services (UK) PLC (Toyota FS) wasn't of satisfactory quality when it was supplied to her.

What happened

In July 2020, Ms J acquired a new car from a dealership. She paid a deposit for the car, with the balance of the purchase price being provided by Toyota FS under a PCP agreement. The agreement was for 42 months, and the cash price of the car was £19,507.

Shortly after taking delivery of the car, Ms J had to return it to the dealership for repair to some rubber tubing. This was repaired under warranty.

Then, in February 2022 Ms J contacted Toyota FS as she had noticed that the Road Sign Assist (RSA) system in the car wasn't working properly. She was unhappy as she had acquired a new car, and she didn't expect it have faults.

Toyota FS said that Ms J hadn't evidenced the fault and there was nothing they could do. Ms J had contacted the manufacturer of the car and had received confirmation from them that it was a known fault and there wasn't currently a timeframe for a software update to be launched to, hopefully, rectify the issue. Because of this, Ms J wanted to reject the car or be given a price reduction of £10,000.

As Toyota FS wouldn't agree to this, Ms J brought her complaint to our service. Our investigator said that she was satisfied the car wasn't of satisfactory quality when it was supplied to Ms J, and she said Ms J could reject the car. However, she said that Toyota FS could keep all the monthly payments Ms J had made, to reflect her usage of the car up until that point. Ms J didn't want to accept this, as she had paid approximately £12,000 in payments for the car and felt this was too much. She said she thought rejection of the car would result in her getting all her money back. As that wasn't the case, she continued to ask for a price reduction of £10,000.

As it couldn't be agreed, the case was passed to me to decide. I issued my provisional decision on 20 August 2024. It said:

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

As the PCP agreement entered by Ms J is a regulated consumer credit agreement this service is able to consider complaints relating to it. Toyota FS are also the supplier of the goods under this type of agreement and are responsible for a complaint about their quality.

The Consumer Rights Act 2015 (CRA) covers agreements like the one Ms J entered. Because Toyota FS supplied the car under a PCP agreement, there's an implied term that it is of satisfactory quality at the point of supply. Cars are of satisfactory quality if they are of a standard that a reasonable person would find acceptable, taking into accounts factors such

as – amongst other things – the age and mileage of the car and the price paid.

The CRA also says that the quality of goods includes their general state and condition, and other things like their fitness for purpose, appearance and finish, freedom from minor defects and safety can be aspects of the quality of the goods.

But on the other hand, satisfactory quality also covers durability. For cars, this means the components must last a reasonable amount of time. Of course, durability will depend on various factors. In Ms J's case, the car was brand-new, and it wouldn't be expected to have any quality concerns.

Our investigator has explained that she thinks the car wasn't of satisfactory quality when it was supplied to Ms J. I agree in this case. There is no doubt the car has a fault – the evidence provided confirms that. However, I don't think the resolution our investigator has suggested is appropriate in this case. I'll explain why.

Shortly after taking delivery of the car Ms J had to return it to the dealership to have some rubber tubing repaired under warranty. As this occurred within the first six months of supply, I would have expected the dealership to take care of that repair.

It wasn't until February 2022 that Ms J first alerted Toyota FS to the fault with the RSA. As this was outside of the first six months, the CRA places the onus on Ms J to prove that this fault was present at the time the car was supplied. I'm satisfied she's done that. She has provided video and photo evidence to show the RSA working incorrectly. She's also provided confirmation from the manufacturer of the car explaining they're aware of a fault with the RSA software in some cases, and they couldn't provide a date when any software update would be released to rectify the issue with the RSA. So, there seems to be little doubt that the car has a fault. And because the fault is with the software of the car rather than a mechanical component, I'm more persuaded than not that the fault has been present in the car from the point it was supplied to Ms J. I appreciate Toyota FS's comments that they haven't been able to find any fault with the car – Ms J has admitted the fault only happens intermittently. However, the evidence from her and the manufacturer themselves doesn't support Toyota FS's claims that there isn't any evidence of a fault. I also understand that the RSA is a driving aide and might not be considered an important part of the overall package. But Ms J acquired a new car and I'm not persuaded that a reasonable person would expect a new car to have any defects at all, whether a component or a software or technology issue.

As I'm persuaded there is a fault with the car, and it's been there from the point of supply, the question now is how to resolve the issue. Ms J initially told our service that she wanted to reject the car, and wanted all her money back, or she would like a price reduction of £10,000 from the total value of the car. Whilst I think both rejection of the car or a price reduction are possible resolutions, I don't think what Ms J has originally asked for is reasonable

Rejection of the car

The CRA explains that Ms J can ask Toyota FS to reject the car after the initial 30 days of the agreement if any repairs haven't been completed in a reasonable time and without significant inconvenience to her. I'm satisfied this applies in Ms J's case. She first brought the fault with the RSA to Toyota FS's attention in February 2022, and the manufacturer has confirmed in August 2023 that there is no timeframe available for a software update to try and rectify the issue. I'm persuaded this is an unreasonable amount of time to wait, and that Ms J can now reject the car if she would like to.

Ordinarily, I would ask that, if the car is rejected, Toyota FS end the agreement with nothing

further for Ms J to pay. However, it's my understanding that Ms J paid the balloon payment to keep the car and the agreement has ended. I also have to consider that Ms J has had use of the car for the duration of the agreement, and I think it's reasonable that she should have to pay for this usage.

The CRA sets out that where the final right to reject is exercised, any refund can be reduced by a deduction for use, taking account of the use the consumer has had of the goods (in this case, the car). I've thought about what a fair deduction for the use Ms J had of the car could look like.

Ms J has confirmed the current mileage of the car is 3,429. Having looked at the car valuation websites and apps available to this service, the highest valuation of the car is now in the region of £15,300, which is £4,207 less than Ms J paid for the car when it was brand-new. I'm planning to decide that Toyota FS can keep £4,207 to reflect the usage Ms J has had of the car, and should she choose this option to reject the car, Toyota FS should reimburse her everything else she's paid outside of the amount of £4,207.

Toyota FS would also need to arrange to collect the car from Ms J at no further cost to her. In addition to this, Toyota FS should remove any adverse information from Ms J's credit file in relation to this agreement, should there be any.

Price reduction

It's possible that a price reduction might be a more suitable option for Ms J. She has come to the end of the agreement and has taken up the offer to pay the balloon payment and take ownership of the car. So I think it's reasonable to assume that, although the RSA isn't working as it should, the car is to Ms J's liking in all other areas. She could have returned the car at the end of the agreement if she wasn't happy to own it.

Because of that, I can't agree with Ms J's proposal to have a price reduction of £10,000 from the total value of the car. This is equivalent to 50% and, in my opinion, isn't proportionate to the fault that is present with the RSA driving aide. There is no doubt Ms J has suffered from the loss of enjoyment of having a brand-new car with a fault, but I have to consider what I think is most reasonable. I do think a price reduction is a reasonable thing for Toyota FS and Ms J to consider. But I would put this price reduction closer to 10% of the total value of the car and am planning to ask Toyota FS to refund Ms J £2,000 should she wish to consider a price reduction and continue to keep the car. Deciding this amount isn't a science, but I'm persuaded this is a fairer outcome than proposed by Ms J, and more accurately reflects the inconvenience she's suffered as a result of the fault with the RSA.

Ms J has also explained the distress she's been caused by acquiring a brand-new car with a fault from supply. It's clearly been a troubling time for her, and for that I'm planning to ask Toyota FS to pay her £150 compensation.'

Toyota FS responded to say that the price reduction proposal was the more suitable option for them. Ms J also responded and has confirmed that she would like to keep the car and accept the option of a price reduction of £2,000, along with the compensation of £150 proposed in the 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.

My provisional decision explained why I've decided the car wasn't of satisfactory quality at the time it was supplied to Ms J, and I gave Ms J two options to try and resolve things. She has chosen to keep the car and accept the price reduction – and my provisional decision explained why I felt that price reduction was a fair amount.

As Toyota FS have also confirmed the price reduction option is the most suitable for them too, I see no reason to depart from the findings in my provisional decision. Toyota FS are required to refund Ms J £2,000 and pay her £150 compensation to reflect the upset caused by being supplied with a new car that wasn't of satisfactory quality.

My final decision

For the reasons above, I'm upholding this complaint. Toyota Financial Services (UK) PLC must:

- Refund Ms J £2,000 and allow her to keep the car;
- Pay Ms J £150 compensation to reflect the upset caused by acquiring a new car that wasn't of satisfactory quality.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms J to accept or reject my decision before 2 October 2024.

Kevin Parmenter
Ombudsman