

The complaint

Mr A complains that a car supplied to him under a hire purchase agreement by Toyota Financial Services (UK) PLC ("Toyota FS") was not of a sufficient quality.

What happened

I issued a provisional decision on this complaint last month. In that decision I explained why I thought the complaint should be upheld and what Toyota FS needed to do in order to put things right. Both parties have received a copy of the provisional decision but, for completeness, I include some extracts from it below. In my decision I said;

Mr A was supplied with a new car in May 2022 through a hire purchase agreement with Toyota FS. The agreement was for £23,451.05 over 42 months, with monthly repayments of £260.27. Mr A also paid a cash deposit of £1,000 and part exchanged another vehicle valued at £7,523.95.

Mr A's car broke down in early January 2024. At that time it was around 18 months old. The car was taken to a main dealer who diagnosed a problem with the hybrid battery system. It needed to order some replacement parts that didn't arrive until May 2024. But more recently Mr A has told us that the repairs were unsuccessful and he continues to face error messages on the car relating to the hybrid system.

Mr A complained to Toyota FS about the car. Toyota FS told him that it didn't agree the breakdown suggested the car was not of a satisfactory quality when it was supplied. It noted that Mr A had been provided with a hire car shortly after the breakdown, and later with a courtesy car from the main dealer. And it reminded Mr A that he was responsible for ensuring the car remained roadworthy during the duration of the agreement, although he could rely on the manufacturer's warranty where appropriate. Toyota FS also agreed to defer some of the repayments Mr A was required to make in line with the Access Flex option offered by his agreement. Toyota FS credited £100 to Mr A's finance account as a gesture of goodwill.

Mr A was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we're able to look into complaints about it. The relevant law – the Consumer Rights Act 2015 ("CRA") - says, amongst other things, that the car should've been of a satisfactory quality when supplied. And if it wasn't, as the supplier of finance used to purchase the car, Toyota FS is responsible. What's satisfactory is determined by what a reasonable person would consider satisfactory given the price, description, and other relevant circumstances. Here I think it is particularly relevant that the car that was supplied to Mr A was brand new.

The CRA also implies that, where a fault is identified within the first six months, it's assumed the fault was present when the car was supplied. But here, since the faults appear to have occurred more than six months after the car was supplied, it is for Mr A to establish that any faults were present at the time of sale, and were not as a result of normal wear and tear.

The car Mr A was supplied was new. So I don't think it unreasonable that his expectations of the car would be greater than if he'd been supplied with a second-hand model that had already covered some mileage. I think a fundamental expectation of a new car would be that it would provide a degree of reliability, suggesting that its parts were durable.

The car that was supplied to Mr A was not drivable due to a fault with the hybrid battery system. That is a fundamental component of the car that I would expect to last significantly longer than the 18 months seen here. So that would suggest to me that there was an underlying issue either with Mr A's car or, as Mr A suggests, the design of the car itself at the time it was first supplied to him.

It seems that Mr A was initially prepared to allow Toyota FS to arrange a repair to his car. Section 23 of the CRA requires any repairs to be completed within a reasonable period of time. Although the act is not specific on how long a reasonable period of time might be, I am entirely satisfied that time period was exceeded by a significant margin here. So I don't think it unreasonable that Mr A should seek to exercise the remedy offered in the CRA – to reject the car.

I am satisfied that allowing Mr A to reject the car is fair and reasonable in all the circumstances here. The car that was supplied to him appears to have had an inherent defect at the time of supply – it was simply not sufficiently durable. And I don't think Toyota FS satisfied the requirements of being allowed a single chance of repair. Those repairs took far too long – and from what Mr A tells us have been unsuccessful anyway.

The vehicle that was supplied to Mr A under the hire purchase agreement was a large family car. As is usual the courtesy car the main dealer gave him was much smaller. Mr A has told us that he was unable to use the courtesy car for family trips as its boot was too small. He says he also found the driving position uncomfortable. And he says that he was embarrassed to take the car to the houses of his family and friends.

I am satisfied that it would have been reasonable for Mr A to reject the car once the initial target date for the repair to be completed of the end of January 2024 had passed. And that is around the time that he started needing to use the small courtesy car provided by the main dealer. So I think that he had little benefit from the repayments he made to the hire purchase agreement after that time. I am therefore intending to direct any repayments Mr A has made to the agreement since 1 February be refunded as part of the rejection.

Our investigator set out for Toyota FS, along similar lines to this decision, why she thought it reasonable for Mr A to be allowed to reject the car. As I said earlier in this decision, Toyota FS failed to make any meaningful response to that assessment. It said, on more than one occasion, that it was considering the assessment and would reply. It asked for extensions to the deadlines our investigator had set.

The responsibilities of a regulated firm when dealing with complaints are set out in the FCA's DISP rules. Of particular relevance here is DISP 3.5.14. That says;

If a respondent fails to comply with a time limit, the Ombudsman may:

- (1) proceed with consideration of the complaint; and*
- (2) include provision for any material distress or material inconvenience caused by that failure in any award which he decides to make.*

I set out earlier the distress and inconvenience Mr A had faced due to the loss of use of his chosen car and the need to use a much smaller courtesy car. Our investigator thought that £400 would be appropriate compensation for that inconvenience. And I too think that is a reasonable amount of compensation. But the investigator's assessment was sent to Toyota FS in May 2024. So the period of time that Mr A has needed to continue to use an unreliable car, and make his hire purchase repayments, has been unreasonably extended by Toyota FS' failure to respond to our investigator's assessment. So I intend to increase the amount I am awarding for Mr A's inconvenience to £600.

I invited both parties to provide us with any further comments or evidence in response to my provisional decision. Both Mr A and Toyota FS have responded to my findings. Although here I am only summarising what each party has said, I want to reassure Mr A and Toyota FS that I have read, and carefully considered, their entire responses.

Mr A says that he agrees with my provisional findings. And he has provided us with photographs of his car dashboard that show a fault with the hybrid system has reoccurred.

Toyota FS doesn't agree with my provisional findings. It says newer cars have many complex mechanical components and sometimes issues occur that need to be looked at and investigated further to rectify the problem. It says that any repairs required would be covered by a comprehensive manufacturer's warranty.

Toyota FS says that whilst Mr A will be disappointed with the problems he has faced with his car they do not prove the car was not of a satisfactory quality when it was supplied. It says Mr A's car has been repaired at no cost to him, and he was provided with a courtesy vehicle to keep him mobile. It thinks the £100 goodwill payment it has already made is a satisfactory resolution to Mr A's complaint.

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.

As I set out in my provisional decision, in deciding this complaint I've taken into account the law, any relevant regulatory rules and good industry practice at the time. I have also carefully considered the submissions that have been made by Mr A and by Toyota FS. Where the evidence is unclear, or there are conflicts, I have made my decision based on the balance of probabilities. In other words I have looked at what evidence we do have, and the surrounding circumstances, to help me decide what I think is more likely to, or should, have happened.

And I repeat my reflections on the role of this service. This service isn't intended to regulate or punish businesses for their conduct – that is the role of the Financial Conduct Authority. Instead this service looks to resolve individual complaints between a consumer and a business. Should we decide that something has gone wrong we would ask the business to put things right by placing the consumer, as far as is possible, in the position they would have been if the problem hadn't occurred.

I have thought carefully about what Toyota FS has said in response to my provisional decision. But those comments, together with the further evidence from Mr A that the fault has reoccurred, do not lead me to change my opinion on the complaint. I would however like to comment further on some of the points Toyota FS has raised.

I set out in my provisional decision why I thought the problems Mr A has faced with his car are likely to have been caused by it not being of a sufficient quality when it was supplied. Essentially I thought a new car should have greater resilience and reliability than a car that was some years old. So the failure of a key component such as the hybrid system would lead to a reasonable conclusion that those parts were not sufficiently durable when the car was supplied.

The CRA does provide for the supplier of goods to be afforded an opportunity to repair any problem that occurred. It is clear that a repair was attempted (although I find it took too long) and has again failed. Although I don't have the benefit of an independent inspection report the photographs that Mr A has supplied, that he took after my provisional decision was issued, show a warning message relating to the malfunction of his car's hybrid battery system – exactly the same issue that he faced in January 2024 and Toyota FS says was repaired.

Whilst Mr A's car might benefit from a comprehensive manufacturer's warranty, and ongoing repairs are available to him, those don't replace Toyota FS' responsibilities under the CRA. The car that was supplied was not of a satisfactory quality, and an attempted repair has both taken too long, and then failed. The CRA is clear that it would be appropriate in these circumstances for the car to be rejected by Mr A.

Mr A asked to reject the car in February 2024. I have explained why I think that date is appropriate for this case. And I don't find the courtesy car that was provided to Mr A, that was significantly smaller than the car Toyota FS had supplied under the agreement, was sufficient for me to conclude he had been kept mobile during the time of the repairs.

So I now confirm the actions that I set out in my provisional decision for Toyota FS to take in order to put things right for Mr A. I think he should be allowed to reject the car, and be refunded the payments he has made since February 2024.

Putting things right

For the reasons set out above, and in my provisional decision, I think it reasonable that Mr A be allowed to reject the car. So in order for that rejection to proceed Toyota FS should do the following;

- End Mr A's hire purchase agreement with nothing further to pay.
- Arrange the collection of Mr A's car at no cost to him.
- Refund the deposit of £8,523.95 paid by Mr A to the agreement.
- Refund any monthly repayments made by Mr A since 1 February 2024
- Pay £600 to Mr A for the inconvenience he has been caused both by the car being not of a satisfactory quality, and the delays to the resolution of his complaint caused by Toyota FS not responding to a reasonable time limit.
- Remove any adverse information recorded on Mr A's credit file in relation to this agreement.

Toyota FS should add interest of 8% simple a year on any amounts it is refunding to Mr A from the date they were paid (if they were) to the date of settlement. HM Revenue &

Customs requires Toyota FS to take off tax from this interest. Toyota FS must give Mr A a certificate showing how much tax it's taken off if he asks for one.

My final decision

My final decision is that I uphold Mr A's complaint and direct Toyota Financial Services (UK) PLC to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 13 December 2024.

Paul Reilly
Ombudsman