

The complaint

Miss M is unhappy that a car supplied to her under a hire purchase agreement with Toyota Financial Services (UK) Plc trading as Redline Finance was of an unsatisfactory quality.

What happened

In July 2022, Miss M was supplied with a used car through a hire purchase agreement with Redline. She paid a deposit of £1,150 and the agreement was for £11,845 over 60 months; with monthly payments of £232.82. At the time of supply, the car was around six and a half years old and had done 64,606 miles (according to the MOT record for 22 June 2022).

Miss M has said she had problems with the car shortly after it was supplied to her, and she raised these with the supplying dealership on 23 July 2022. She said a service required message came up on the dashboard; a brake fault light illuminated but didn't stay on; the car was sluggish when accelerating and took time to change gears; there was a rattling noise; and the odometer was showing an incorrect speed. The dealership advised Miss M to contact her local manufacturer's dealership, who would be able to complete any repairs under warranty.

It wasn't until 6 January 2023 that Miss M took the car to a manufacturer's dealership, where it was inspected. It was found that the timing chain needed replacement and an oil leak meant the turbocharger also needed replacing. Miss M attempted to rent a car, from a third-party provider, in the name of the supplying dealership, to keep herself mobile. However, the supplying dealership cancelled this transaction before the hire car could be provided.

Instead, Miss M was provided with a courtesy car from 3 February 2023, and her alternative transport costs for the period 6 January to 3 February 2023 were reimbursed to her. The repairs to the car were completed, and it was returned to Miss M at the end of March 2023.

In April 2023, Miss M complained there were still faults with the car – the engine management light came on intermittently and there was a noise when the car accelerated. She followed this up with an email saying the car wasn't working and smoke was coming out from under the bonnet, asking for the car to be repaired or replaced.

A further repair to the car took place, and Miss M was again provided with a courtesy car.

Redline responded to Miss M's complaint. They said that the car had been repaired and that Miss M had been kept mobile while these repairs were taking place. So, they didn't uphold the complaint. However, they did offer Miss M the refund of one monthly payment as a gesture of goodwill.

Miss M wasn't happy with the offer made by Redline. She thought she should be compensated £3,500 for her loss of earnings and an additional £1,000 for being without a courtesy car in January 2023. She also thought she should be refunded £3,500 of the payments she's made as she wasn't able to use the car at its full potential, refunded £900 of the insurance and warranty costs she'd paid, and paid an additional £5,000 for the distress she'd been caused.

Our investigator considered all the facts and evidence and said it wasn't disputed there was a fault with the car, which made it of an unsatisfactory quality. But, as the car had been repaired, she thought that Redline's offer was reasonable, and they didn't need to do anything more.

Miss M disagreed with the investigator. She thought that Redline were obliged to provide a like-for-like replacement car as a resolution to her complaint, and that this should've been done within six-months of the car being supplied to her. And she was unhappy they delayed matters by five months before trying to address the issues. She also said that she hadn't fully benefitted from the insurance and warranty on the car while it was being repaired, so she thought this should also be refunded to her.

With regards to her loss of earnings, Miss M said *"the constant need for repairs and the subsequent unavailability of the vehicle affected my ability to commute and carry out work-related tasks efficiently. It caused undue stress and frustration, ultimately leading to a loss of enjoyment in driving the car. While I appreciate the gesture of one month's instalment offered by Redline, I believe it does not adequately compensate for the overall impact and inconvenience I have endured."*

Miss M also said that Redline *"disregarded her disability and denied her rights, violating anti-discrimination laws and further exacerbating the harm caused to her physical and mental health."*

In addition to this, Miss M raised issues of false advertising, misrepresentation, failure to offer alternative finance options, and discrimination by the supplying dealership during the process of the purchase and supply of the car.

The investigator explained that Miss M's concerns about the dealership were being dealt with separately, so didn't form part of her view.

Because Miss M didn't agree, this matter has been passed to me to make a final 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.

Having done so, I've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Miss M was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we're able to investigate complaints about it.

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 goods, Redline are responsible. What's satisfactory is determined by things such as what a reasonable person would consider satisfactory given the price, description, and other relevant circumstances. In a case like this, this would include things like the age and mileage at the time of sale, and the vehicle's history and its durability. Durability means that the components of the car must last a reasonable amount of time.

The CRA also implies that goods must conform to contract within the first six months. So, where a fault is identified within the first six months, it's assumed the fault was present when the car was supplied, unless Redline can show otherwise. But, where a fault is identified after the first six months, the CRA implies that it's for Miss M to show it was present when the car was supplied.

So, if I thought the car was faulty when Miss M took possession of it, or that the car wasn't sufficiently durable, and this made the car not of a satisfactory quality, it'd be fair and reasonable to ask Redline to put this right.

In this instance, it's not disputed there was a problem with the car, nor that this fault was present when the car was supplied to Miss M. As such, I'm satisfied that I don't need to consider the merits of this issue within my decision. Instead, I'll focus on what, if anything, I think Redline should do to put things right.

Miss M was provided with the car on 14 July 2022. While she has referred to a six-month right of rejection within her communication, section 22 of the CRA only allows for a 30-day short-term right to reject. And, while Miss M raised issues about the car within 30-days of the car being supplied to her, I haven't seen anything to show me she asked Redline to reject the car within the first 30-days.

Miss M has referred to the five-month delay in getting the car inspected, and the severe impact this had on her, especially as she believed she was driving a car that wasn't roadworthy. I've considered this delay and seen that Miss M was unable to arrange to take her car to be inspected due to a period of illness, a period of holiday, and dealerships being closed during the Christmas / New Year break. I've also seen that she was offered multiple dates to bring the car in for inspection, none of which she said were suitable for her.

Given this, I'm satisfied that the delay in the car being inspected between 23 July 2022 and 6 January 2023 was down to Miss M, not Redline. As such, I don't think it's reasonable for the 30-day short-term right to reject to be extended to cover this period. And, while this delay was inconvenient to Miss M and caused her some distress, I don't think Redline should compensate her for this.

In circumstances where goods supplied are of an unsatisfactory quality, the CRA allows for repair **OR** replacement. While I appreciate Miss M wanted replacement, I don't think this was a practical option in this case. I say this because of the make, model, age and mileage of the car supplied to Miss M would make it very difficult, if not impossible, to source a like-for-like replacement. As such, I don't think Redline have acted unreasonably by offering repair instead, especially as this is an option allowable under the CRA.

In her comments on the view, Miss M has said the repairs on the car were unsuccessful. However, this contradicts what Redline have said. In these instances, I would look for evidence to back up the opposing views. In this case I'm looking for some evidence that the repair was unsuccessful, or that faults that were present or developing at the point of supply remain unrepaired. And I haven't seen anything, for example a report from an independent engineer, to show me that was the case. So, based on what I've seen, and given the lack of any evidence to the contrary, I'm satisfied the repairs were successful.

When repairs have been successful, the CRA doesn't allow for the right to reject. So, I won't be asking Redline to either replace the car, or to allow Miss M to reject it.

It's not disputed that, for most of the time the car was in for repair, Miss M was provided with a courtesy car. And when she wasn't, her alternate transport costs (taxis) have been refunded to her. As such, I'm satisfied that Miss M was kept mobile during this period.

Miss M has raised the issue of disability discrimination as, *"despite having a valid disability badge, I was without a vehicle for a month, incurring inconvenience and financial burden."* However, for the reasons I've already explained, I'm satisfied that Miss M's transport costs were covered during this period. So, I don't agree there was an additional financial burden. What's more, I haven't seen anything that suggests Miss M received lesser treatment or support because of her disability than would be provided to any other customer. As such, I don't agree that Miss M has been discriminated against because of her disability.

However, I do agree that she was caused some inconvenience, which I will address later in my decision.

Miss M was provided with a courtesy car that wasn't on a like-for-like basis for the car she'd been supplied with by Redline. And she's explained how she felt this affected both her brand, and that she wasn't getting the car she was paying for.

As Miss M was kept mobile while her car was in for repair (including the period when the courtesy car wasn't provided) I think it's only fair she pays for this usage. However, given the issues with the courtesy car, I'm also satisfied that Miss M's usage and enjoyment of the car has been impaired. Because of this, I also think it's fair that Redline refund some of the payments Miss M made. And I think 5% of the payments made between January and May 2023 fairly reflects the impaired use caused by the courtesy car not being of a like-for-like basis. This equates to £58.21.

Miss M has also said she's lost out on £3,500 earnings during the time her car was in for repair. She hasn't provided any evidence of this, and I've seen that Miss M was kept mobile during this period. So, while it wasn't in the car supplied by Redline, she was able to travel to and from her places of work. As such, I won't be asking Redline to compensate Miss M for this.

Miss M has also said she's paid for insurance and warranty on the car, while she wasn't able to use it. With regards to the warranty, this covers a specific period, during which the warranty was still providing cover for any other issues that may arise. So, I don't agree the warranty wasn't of any benefit. And I won't be asking Redline to refund these costs.

With regards to the insurance, Miss M is both legally, and under the terms of the agreement she signed with Redline, required to ensure the car was insured. And the insurance covered the car for any perils i.e., fire or theft, throughout the period of repair. What's more, Miss M wasn't required to separately insure the courtesy car while she was using this. As such, she was still paying for a car insurance while driving an insured car on the road (or having one available to drive). Given this, I also won't be asking Redline to refund these costs.

It's also clear that Miss M has been distressed and inconvenienced by what has happened, and I think Redline should compensate her for this. Given the circumstances, and taking everything into consideration, I would normally recommend around £150 to £200. Which, when added to the impaired usage, would bring the total payment I'd expect Redline to pay to be in the region of £200 to £250.

Redline have already offered Miss M the refund of one payment - £232.82 – which falls within the range of what I'd expect them to pay. As such, I won't be asking Redline to amend their offer, and it's now for Miss M to decide whether to accept this.

My final decision

For the reasons explained, I don't uphold Miss M's complaint about Toyota Financial Services (UK) Plc trading as Redline Finance.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 15 November 2023.

Andrew Burford
Ombudsman