

## **The complaint**

Ms B complains about a car she acquired under a hire purchase agreement taken with Volkswagen Financial Services (UK) Limited trading as Seat Financial Services ('VWFS').

## **What happened**

Ms B acquired a new car in September 2021 from a main dealer. The car cost £30,444. Ms B paid an advance payment of £8,699 and was due to make repayments over 36 months. In January 2022 the agreement was paid off and settled.

Unfortunately, Ms B says she began to have issues with the car. In June 2022 it was returned to the dealer for a repair to the boot struts. And in August 2022 software updates were done to rectify an issue with an 'SOS fault' and the automatic cruise control. The mileage was noted as 864 and 960 at these points.

Ms B complained to VWFS in September 2022 and said the car still had issues. The same month, the car was returned to the dealer as Ms B said the boot wouldn't open, an SOS button wasn't working, the 'front assist' warning was flashing up and the car had issues with the infotainment system.

Ms B says the dealer had the car for around seven days, but it said it didn't find a fault with it.

VWFS issued its final response in October 2022. It said, in summary, that due to the time that had passed, it didn't think any issues Ms B complained about were present or developing when she was supplied with the car.

Ms B remained unhappy and referred the complaint to our service. She said, in summary, that the car had issues with warning lights, the 'front assist' system, the boot wouldn't open and that the 'auto hold' had issues. Ms B also said she wanted the figures from the finance to be checked.

An investigator issued an opinion and didn't uphold the complaint. He said, in summary, that he thought the car had issues with the boot struts that were likely present at the point of supply. But, he thought the other issues were not likely present when Ms B got the car. Our investigator concluded that the car was not of satisfactory quality when it was supplied to Ms B, but he thought the boot strut issue was repaired and so VWFS didn't need to do anything further.

Ms B replied and, in summary, said she'd provided enough to show all of the issues were present. She sent in further evidence, including photos, videos and a recording she says was from when the dealer returned the car to her. And she said her point about the finance figures hadn't been addressed.

Our investigator replied and said the information didn't change his mind. And he said he hadn't seen any issues with the figures Ms B was given.

Ms B remained unhappy. She sent some further details including an invoice for a diagnostic from a garage. This noted issues with the rear tailgate, touchscreen infotainment, 'front assist' and dash warning lights. This was dated 23 March 2023 and the mileage noted as 1,542.

Our investigator explained having considered everything Ms B had supplied, his opinion hadn't changed. Ms B remained unhappy, so the case has been passed to me to decide

### **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 don't think this complaint should be upheld. I'll explain why.

I should begin by explaining to Ms B, and VWFS, that I'm not going to comment on every piece of evidence Ms B has provided nor every point she's raised. Instead, as I've done in the history above, I'm going to focus on what I think are the key facts and the crux of Ms B's complaint. Where I haven't mentioned something, I want to reassure both parties that this doesn't mean I haven't considered it, nor that I think it unimportant. I've reviewed all of the evidence on the case, and my approach here reflects the informal nature of our service.

Ms B complains about a car supplied under a hire purchase agreement. Entering into consumer credit contracts such as this one as a lender is a regulated activity, so I'm satisfied I can consider Ms B's complaint against VWFS.

When considering what's fair and reasonable, I take into account relevant law and regulations. The Consumer Rights Act 2015 ('CRA') is relevant to this complaint. The CRA explains under a contract to supply goods, the supplier – VWFS here – has a responsibility to make sure goods are of satisfactory quality. Satisfactory quality is what a reasonable person would expect – taking into account any relevant factors.

I would consider relevant factors here, amongst others, to include the car's age, price, mileage and description.

So, I'll consider that Ms B's car cost over £30,000 and was brand new. I think a reasonable person would've expected it to have been in great condition and free from even minor faults. And I think they'd expect trouble free motoring for a significant amount of time.

What I need to decide here is whether Ms B's car was of satisfactory quality or not. I'll firstly consider the initial faults Ms B complained about.

I've reviewed Ms B's testimony here and the 'Vehicle history' provided by VWFS. This records, in June 2022:

*"confirm boot lid difficult to open and intermittently closes on its own"*

*"both struts were replaced and boot tested again, now working correctly"*

The vehicle history from August 2022 in relation to the automatic cruise control records:

*"I checked the customers concern with the ACC issue. I confirm the fault on road test with the customer"*

*"I have updated the ('software'), erased fault codes and tested – all ok"*

In relation to an SOS fault appearing on the dash, the history explains:

*"I can confirm the fault"*

*"I carried out the update changing the ('software version'), erased the faults and retested all okay"*

Thinking about this, I think it's quite clear the car initially had the faults Ms B complained about. And I disagree with VWFS's response that it isn't responsible here.

The CRA specifically states that durability should be considered as part of satisfactory quality. Even if I accepted VWFS' view that these faults weren't present at the point of supply, I don't think a reasonable person would expect a brand new car to have these issues when it did. It follows that I think a reasonable person would not consider the car to have been durable, and so I'm satisfied it was not of satisfactory quality when Ms B got it.

That being said, I'm also satisfied that the faults were rectified from the above information. I say this as the vehicle history specifically states the car was tested after the repair and software updates and there were no issues.

Thinking about Ms B's rights under the CRA, given the car was of unsatisfactory quality, she had a right for the supplier to repair the problems. I'm satisfied this is what happened here. So, Ms B's rights under the CRA were broadly met.

I then need to consider the later problems Ms B complains about, and whether any of the above issues reoccurred.

I've thought about the evidence about the later issues Ms B says the car had.

Ms B has provided a recording of when the car was returned to her from the dealer. I should say that I think a court may question the validity of this evidence. I say this as I'm not sure if Ms B had permission to record the conversation, and I think it's clear the recording has been edited by her. I say this as there are gaps in the conversation, and she appears to have added a 'voiceover' in parts with her thoughts. However, as an informal service I think I can take this into account as it's quite a persuasive piece of evidence that contains a lot of detail.

The recording is over an hour long and I think it is from early October 2022. The recording is of, I believe, a conversation between Ms B and the workshop manager from the main dealer.

Given the length of the call, I won't explain everything discussed here. But I will summarise some key points.

It's explained to Ms B that the car was kept for a week by the dealer to make sure it was thoroughly tested. The staff member said this was because Ms B had complained about intermittent issues, and the dealer wanted the car for long enough to see if anything was wrong.

It's explained to Ms B the car was worked on by a 'master technician', various diagnostics were carried out, all software was checked on the car, 'extensive visual checks' were done and the car was road tested on several occasions.

Several things are demonstrated to Ms B. The boot is opened and can be heard to work first time without issue. The staff member explains this has happened every time the boot has been tried. The infotainment system and climate control unit are used with Ms B present,

again without fault first time. It's explained no warning lights are on. And it's explained the 'auto hold' system worked when the car was test driven.

In summary, it's clearly explained on multiple occasions that the workshop manager and master technician believed there was nothing wrong with the car and it was performing as it should.

I've then considered the diagnostic Ms B supplied dated 23 March 2023 from a third party garage. This notes under 'customer advisories':

*"Rear Tailgate Not Opening & Closing – Possible Actuator  
Touchscreen Information System – Touch Screen Not Functioning – Intermittent – Screen Freeze  
Front Assist – Non Functioning  
Dash Warning Lights – Intermittent"*

The first thing to note here is that because the above is written under 'customer advisories', it isn't clear if this is what the garage diagnosed, or what Ms B told it were the issues with the car.

I've considered that what I've set out above is all of the commentary the diagnostic contains. It doesn't explain what the garage did to the car, whether it test drove it, under what conditions these issues were observed etc. Given the testing that would likely be involved in finding fault with a system like the 'front assist', I might have expected to see some more information if the garage confirmed these issues.

I've thought carefully about this. And I accept, given these seem to possibly be intermittent faults, it is possible that all of the faults went away for seven days when the dealer tested the car, and then all came back on the, presumably single, occasion that the third party garage looked at it. But, I need to think about what most likely is the case here. And this doesn't seem very plausible to me.

I also need to think here about who is the most qualified to diagnose any issues with the car. The recording confirms a master technician from the main dealer worked on Ms B's car and it was then demonstrated to her by the workshop manager. While I am not questioning the ability of the third party garage that Ms B took the car to, I think it's most likely the main dealer's workshop were the most experienced with this make and model.

So, considering all of this, I'm more persuaded by the fact that the dealer couldn't find fault with the car than the very limited information in the diagnostic Ms B provided.

I've also thought about the fact that Ms B clearly doesn't accept that no work was done on the car for the week the manufacturer's garage had it. But, even she's right here, given everything was demonstrated to be working, this would mean the issues were repaired. So, as earlier, her rights under the CRA would've been met.

I've considered the photos Ms B sent in. I accept these do show warning lights. But some of these are the car alerting Ms B to other warnings which can't be seen in the photos. One appears to show a seatbelt warning, where the car is stationary and the door open. And overall, I've seen very little context or information about the photos. Taking everything into account, these photos don't persuade me there was a fault with the car.

I've also carefully considered the videos Ms B sent in where she appears not to be able to open the boot. I can appreciate her frustration here. But it's difficult, without seeing things first hand, to know exactly what is happening. And I need to weigh this up against the fact

the workshop manager was able to open the boot, first time, in front of Ms B after explaining it had been tested for several days without fault and no work had been done on it. Thinking about everything, this isn't enough, on balance, to change my opinion.

In summary, I haven't seen enough to make me think it's most likely the car had the ongoing faults Ms B complained about since the initial repairs took place in June and August 2022. It follows this means, following these repairs, I'm not persuaded the car was of unsatisfactory quality.

In relation to the finance figures, Ms B has asked that these are 'reviewed'. And I can see she asked VWFS about this. But, I should explain it isn't my role to calculate or double check figures for Ms B. There's very limited information here, for instance Ms B hasn't provided much detail, or any evidence, to show these are wrong, or specifics around what she thinks any issue with the figures is. Given the very limited information, I haven't seen enough to make me think VWFS need to take any action on this point.

I want to reiterate to Ms B that I've carefully considered everything else she's provided and all of the testimony she's given us. But this doesn't change my opinion.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 15 August 2023.

John Bower  
**Ombudsman**