

The complaint

Mr B complains Volvo Car Financial Services UK Limited (VCFS) supplied him with a car that he believes wasn't of satisfactory quality.

What happened

In October 2022, Mr B entered into a 49 month personal contract purchase agreement (PCP) for a new car. The car's cash price was around £61,000. Mr B made an advance payment of around £11,700. He was required to make monthly payments of £675 with an optional final payment of around £27,300. The total amount payable under the agreement was over £71,600.

Within days of acquiring the car, Mr B reported issues with the car's paintwork to the dealership. He said there were swirls within the paintwork and a dent. As a gesture of goodwill (without admission of liability), the dealership agreed to contribute £200 for the repair and said Mr B would be required to pay the £150 shortfall. He complained to VCFS.

VCFS said to resolve the complaint they would be willing to pay the shortfall and also pay £100 compensation to Mr B for the trouble and upset caused.

In February 2023, the car was repolished. Around May 2023, Mr B reported the swirl marks within the paintwork remained. He said as the weather had gotten brighter, the marks were visible. He referred the complaint to our service.

Our investigator recommended the complaint was upheld. She said the car was supplied brand new but had issues with the paintwork. She believed the car wasn't of satisfactory quality. Based on the pictures provided by Mr B she wasn't satisfied the repair in February 2023 fixed the issue meaning it failed. She concluded VCFS should allow Mr B to reject the car. She also outlined a number of things they should do to put things right such as refund the deposit, refund any overpayments, collect the car, etc.

Broadly speaking Mr B accepted the findings. However VCFS disagreed. In summary they said:

- The swirl marks weren't present when Mr B took delivery of the car. The marks would've been evident even if the weather was overcast;
- All new cars are painted as part of a production line and in the same way, if this was an inherent manufacturing fault, it would be present in other cars but they've received no other complaints;
- The pictures provided by Mr B weren't taken from the day of supply;
- It's possible these swirl marks were caused by Mr B when he washed the car, it's consistent with a manual wash;
- The dealership arranged a repair to be carried out in February 2023, if Mr B wasn't happy with the work he could've complained sooner;

- This is a cosmetic issue which is most likely to have happened after Mr B took possession of the car.

In November 2023, I issued my provisional decision outlining my intentions not to uphold this complaint. I said:

“Mr B acquired a car under a regulated credit agreement. VCFS was the supplier of the goods under this type of agreement meaning they are responsible for a complaint about the supply and the quality of the car.

The Consumer Rights Act 2015 (CRA) is relevant to this complaint. It says that, under a contract to supply goods, there is an implied term that “the quality of the goods is satisfactory”. To be considered “satisfactory”, the goods would need to meet the standard that a reasonable person would consider satisfactory – taking into account any description of the goods, the price and all the other relevant circumstances. In a case involving a car, the other relevant circumstances a court would take into account might include things like the age and mileage. The quality of goods includes other things like fitness for purpose, appearance, freedom from minor defects, safety and durability.

In this case, Mr B was supplied with a brand-new car. The CRA says things like appearance and finish and freedom from minor defects are relevant aspects when considering the quality of goods. I think a reasonable person would expect a brand new car that cost in excess of £61,000 would have paintwork finished to a very high standard and for the car to be free from minor defects.

Based on the evidence I’ve seen, there are no photographs of the swirl marks Mr B initially reported after acquiring the car. In the absence of the same, there is insufficient evidence for me to reasonably say there was a fault with the paintwork and that meant the car wasn’t of satisfactory quality at supply.

However I can see the dealership agreed to contribute to the cost for a repolish in light of Mr B’s concerns and VCFS agreed to pay the shortfall and some compensation. For the above reasons, I don’t find they weren’t obliged to do so but it’s clear they wanted to resolve matters for Mr B so I can’t say VCFS acted unfairly.

From my understanding, a couple of months after the repolish, Mr B said the swirls in the paintwork remained. He has provided photographs of the car taken around that time and I’ve carefully reviewed the same. Having done so, it’s difficult to identify the swirl marks he is referring to. This is because the photographs were taken in high levels of sunlight and there is a lot of reflection including that of the car’s surroundings. In some close up photos, there appears to be marks however it’s hard to decipher whether this is swirls in the paintwork itself, scuffs, water blemishes or reflections.

I note VCFS’s comments that as a new car it would’ve been painted as part of a production line. To my mind, presumably this is done using some sort of spray tool and/or method to ensure an evenness and consistency of the paint applied. There’s nothing to suggest it’s done by hand or in a swirling motion so I’m inclined to agree with VCFS’s comments that if swirl marks are present, this could be caused by something else, such as a manual wash of a car using a circular motion technique. I find this to be plausible especially as there is a suggestion Mr B reported these issues after having washed the car. I wish to make it clear

I'm not definitively saying Mr B has caused it, I accept his comments he has owned and washed cars for a long period of time. However if there are issues with the paintwork including swirl marks, it may be caused by something else such as the way the car has been washed or through general use of it.

I've also thought about when Mr B complained the second time. Given his earlier concerns and the resulting repolish in February 2023, I find it would've been reasonable for him to have checked the car to make sure no marks remained and if they did, to report it sooner than he did. On balance I believe if such marks were present and they were an inherent manufacturing fault, they would've been visible irrespective of the weather conditions. However there is no evidence he did and it would appear he used the car for a couple of months before raising the issue again.

Upon doing so, I note from emails he was asked to bring the car back to the dealership so they could look at it but I can't see Mr B doing so. He said this was because he had already referred the complaint to our service. Although he wasn't obliged to do so, this was an opportunity for the dealership to address his concerns, see if the marks were present and if it was a manufacturing fault. I consider that was a fair request by the dealership.

Taking everything into account, I don't find I've been provided with sufficient or persuasive evidence for me to conclude there was an inherent manufacturing fault in the car's paintwork. Overall I find the car was of satisfactory quality at supply therefore I don't intend to say VCFS should allow Mr B to reject the car as he's requested. I don't believe VCFS need to do anything further to settle this complaint".

Response to the provisional

VCFS accepted the findings. Mr B disagreed, in summary he said:

- The swirl marks would've only been present in sunlight not in overcast weather conditions. Had he seen the marks at collection, he would've reported it immediately;
- The damage is likely to have been caused by the dealership who was rushing to provide the car on the day of collection. They may have used a cloth with an abrasive substance in preparing the car. It may have also been caused by other external factors;
- He never said the marks were inherent manufacturing faults;
- He doesn't believe the car was looked under ultraviolet light as alleged by the dealership;
- The photographs show uniform swirl marks which was caused by a mechanical polisher, not done caused by manual action;
- The car was supposed to have a paint protection which would've prevented such marks. Meaning the marks were there before it was applied or it was never applied to the car to begin with;
- The dealership agreeing to the repair should be considered an admission of liability;
- After the repair, the dealership had never offered to relook at the car's paintwork;
- He had received a quote for £875 to rectify the issue and if VCFS are willing to cover this cost, he would accept this as a resolution.

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.

I thank both parties for their prompt responses. I've carefully considered Mr B's further submissions and photos. I won't comment on each one individually but I can reassure both parties, I've carefully thought about them.

Based on the further pictures provided by Mr B, they are clearer and I can see the marks he is referring to. However I remain on the opinion that there is insufficient evidence for me to reasonably say they were present at supply or caused by the dealership (whether by abrasive substances or a mechanical polisher) as he alleges.

For some of the points he's raised, I've already commented on them in my provisional decision so I won't repeat them again. But for those not previously raised, having considered them fully, I find there isn't enough evidence to support his position therefore my overall opinion remains unchanged. So it follows I won't be asking VCFS to do anything further to resolve this complaint.

On the basis I haven't been provided with any further information to change my decision I still consider my findings to be fair and reasonable in the circumstances. Therefore, my final decision is the same for the reasons as set out in my provisional decision.

My final decision

For the reasons set out above, I've decided not to uphold Mr B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 8 January 2024.

Simona Reese
Ombudsman