

The complaint

Mr W complains about the quality of a used car that was supplied through a hire purchase agreement with Volkswagen Financial Services (UK) Limited (VWFS).

What happened

In August 2022, Mr W acquired a used car through a hire purchase agreement with VWFS. The car was about four years old and had travelled 17,890 miles when it was supplied to Mr W. The cash price of the car was £15,188.75. Mr W part exchanged another vehicle which had some negative equity on it. So, the total amount financed on this agreement was £15,188.59 payable over 48 monthly repayments.

In February 2023 Mr W complained to VWFS about the quality of his car. Mr W said in November 2022 he started experiencing various electrical issues with it. He said his car has lost power on about two occasions and both were within six months of the car being supplied to him. Mr W said he took the car to a garage that was recommended by the dealership who ran a diagnostic and couldn't find any data on the power control module (PCM). Mr W is concerned that the data was deleted by the dealership or that it doesn't exist in the first place.

Mr W said this situation has caused him extreme stress and worry. He said his wife had recently given birth and was having to use a taxi to get around. Mr W says he wants to end the agreement and return the car without any penalties.

Mr W brought his complaint to our service for investigation prior to VWFS completing their investigation. However, on 11 August 2023 VWFS issued their final response, which they didn't uphold. VWFS explained they reached their decision as no fault was found with the car.

Following VWFS' final response and having reviewed all the information on file, our investigator recommended that the complaint should not be upheld. Our investigator concluded that as there was no expert evidence to show a fault existed when the car was supplied, he couldn't say it wasn't of satisfactory quality.

VWFS accepted this recommendation. However, Mr W didn't. So, he asked that his complaint be referred to an ombudsman for 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.

In considering what is fair and reasonable, I've thought about all the evidence and information provided afresh and the relevant law and regulations, regulators' rules, guidance

and standards, codes of practice and (where appropriate) what I consider to have been good industry practice at the relevant time.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point, it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

The agreement in this case is a regulated hire purchase agreement. As such, this service is able to consider complaints relating to it. VWFS is also the supplier of the goods under this agreement, and is responsible for a complaint about their quality.

Mr W has raised concerns about the way VWFS have handled the complaint against them. For example, in his complaint form Mr W points out VWFS gave him conflicting information, and that there was a delay when assigning to him a case handler. Complaint handling isn't a regulated activity in its own right. Nor is it one of the specified non-regulated activities that I'm able to deal with under our compulsory jurisdiction (DISP Rule 2.3.1R). And so, I'm unable to look into the specifics of this.

My focus in this decision is on the quality of the goods that was supplied to Mr W by VWFS through the hire purchase agreement.

The Consumer Rights Act 2015 (CRA) is relevant in this case. It says that under a contract to supply goods, there is an implied term that "*the quality of the goods is satisfactory, fit for purpose and as described*". To be considered as satisfactory, the CRA says the goods need to meet the standard that a reasonable person would consider satisfactory, considering any description of the goods, the price and all the other relevant circumstances.

So, it seems likely that in a case involving a car, the other relevant circumstances a court would consider might include things like the age and mileage at the time of sale and the vehicle's history.

My starting point is that VWFS supplied Mr W with a used car that had travelled 17,890 miles. With this in mind, I think it's fair to say that a reasonable person would expect the level of quality to be less than that of a brand-new car with lower mileage; and that there may be signs of wear and tear due to its usage. Having said that, the car was priced at over £15,000, which isn't insignificant. It also wasn't a particularly old vehicle. So, I think it is fair to say that a reasonable person would expect it could be used free from any major issues for a reasonable period of time.

From the information provided I'm persuaded there was a fault with the car. Although I've seen no diagnostics or expert reports advising of a fault, I find what Mr W said to be compelling. The images and videos provided by Mr W persuades me that he's experienced issues that are possibly connected to the illumination of the engine management light. Having considered the car had a fault, I've considered whether it was of satisfactory quality at the time of supply.

Satisfactory quality

The dealership advised after inspection of the car, that they found zero faults in the PCM and were unable to confirm any defects during testing.

When Mr W brought his complaint to our service his main concern was that the PCM had no data recorded on it and that he was told it was a possibility that it had been wiped. Mr W was

concerned that either the dealership had tampered with it in some way to erase the data, or that the PCM was not recording information.

Mr W also believed the car had an electrical fault which had caused it to lose power on occasions and was affecting the EML and daytime running light.

I acknowledge the images sent in by Mr W showed an illumination on the dashboard, however, although this persuades me that something is wrong with the car, I'm unable to say what the issue is, how it's developed or whether it renders the car to be of unsatisfactory quality.

Mr W also shared a video of the car being checked by a mechanic, although no faults were confirmed. The daytime running light was highlighted as requiring further investigation, but no commentary as given as to whether it was inherently faulty or connected to a wider electrical issue. In addition to this, I've also seen no evidence of the car losing power.

I recognise Mr W's strength of feeling that the issues would have been developing when he acquired the car, however, as Mr W was able to travel around 7,000 miles from the point of supply, I think it's reasonable to say the car was performing at the point it was supplied to him.

Having also reviewed the MOT history for Mr W's car, although I recognise the MOT checks are not particularly intrusive, I can't see that there were any advisories or fails since Mr W acquired the car.

As I've seen no evidence which provides further details about what Mr W has said, for example in the form of an expert report or diagnostics, confirming what the fault is and that it was likely to be developing at the point of supply, I'm satisfied that on balance it's reasonable to conclude that the car was of satisfactory quality when it was supplied to him.

As I've concluded that the car was of satisfactory quality at the point it was supplied, I don't require VWFS to take any action in respect of this complaint.

My final decision

Having thought about everything above along with what is fair and reasonable in the circumstances I don't uphold Mr W's complaint about Volkswagen Financial Services (UK) Limited

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 13 November 2023.

Benjamin John
Ombudsman