

The complaint

Mr Z complains that Volkswagen Financial Services (UK) Limited ("VWFS") have refused to allow him to reject the electric car he acquired through them which he says is faulty and does not achieve the stated mileage range.

What happened

Mr Z entered into a hire purchase agreement with VWFS in March 2023 to acquire a used electric car. Shortly after the agreement began, he complained to VWFS, asking to return the car. He said that the car wasn't giving him the expected mileage range, as the most he seemed to be able to achieve was 160 miles, but it was advertised with a 193 mile range.

He said that he tried to exercise his right to return the car within the 14 days cooling off period, but this wasn't being allowed. He also said that the car had been mis sold to him due to this range discrepancy.

VWFS responded with their final response letter (FRL) in May 2023. They didn't uphold the complaint and said that the dealership had assessed the car and found no faults with the battery. They explained that the published mileage range of up to 193 miles was based on industry standard laboratory tests (called WLTP technical standards), which are derived under optimal conditions, and not taking into account normal driving conditions and variables.

They also highlighted the information on the car manufacturer website which explained the variables which impact an electric car's range. They followed on by giving Mr Z his options to end the agreement early, which didn't include rejecting it/giving it back/changing his mind within any cooling off period.

While waiting for this response, Mr Z had already brought the complaint to our service. An investigator here investigated it and didn't uphold the complaint. They said that they'd seen no evidence of any fault with the car, and didn't agree that the car had been misrepresented to Mr Z. They said there was no evidence of any conversation held between Mr Z and the dealer where a range of 193 miles was discussed, and that when asked about this, VWFS explained that the process dealers would follow was to refer those kinds of questions to the manufacturer website. They also said that the salesperson involved had discussed the fluctuations in range depending on the driving conditions at the time.

The investigator highlighted the details of the industry standard tests which are carried out, and how these are designed only to give consumers a comparison between the mileage range of different makes and models and aren't real world comparisons of the mileage range that is achievable. And finally, the investigator went on to explain that there was no right to reject or end the agreement and give the car back within 14 days. They highlighted that in the agreement itself, a 14 day period was discussed but this was only in relation to withdrawing from the finance itself, meaning Mr Z would have to arrange another way to pay off the money owed, and would keep the car.

Mr Z didn't agree with this view. He said that the vehicle was advertised with a range of 193

miles, and that's why he acquired it. He said no conversation about the real world range happened with the dealership, or he wouldn't have bought it. He asked for an Ombudsman to make a final decision on his 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.

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. Mr Z was supplied with a vehicle under a hire purchase agreement. This is a regulated consumer credit agreement which means we're able to look into complaints about it.

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.

There are three issues for me to consider here. The first is whether Mr Z was entitled to exercise any rights to give the car back without reason, a "14 day cooling off period". The second is whether there was a fault with the car meaning it was not performing as it should. And the third is whether the car was misrepresented to Mr Z; was a false statement of fact made about the car and its range which induced him to acquire the car.

Looking at the first issue, there is no 14 days cooling off period here relating to the car itself and giving it back. As the investigator already explained, talk of 14 days to withdraw in the agreement itself is about the finance, not the car. So, if someone decides to pay for the car in cash, or to arrange different finance to pay for it, they have 14 days to withdraw from the finance agreement but have to make other arrangements to pay for the car.

A consumer may have the right to reject the car and get their deposit back if the car is of unsatisfactory quality. This is outlined in the CRA, but to find that Mr Z had this right, I'd need to be satisfied that the car was of unsatisfactory quality. This is the second issue I have looked at.

Mr Z has confirmed that it wasn't VWFS who had the battery checked and tested for faults, but it was himself. However, this doesn't change the fact that there was no fault or problem with the battery identified, and it was performing as expected. No evidence has been provided of the battery being faulty in any way, nor has any testimony or evidence been provided about any other faults. As such, I can't agree that Mr Z had the right to reject the car under his rights in the CRA about faulty/unsatisfactory quality goods.

Finally, I have considered whether the agreement itself was misrepresented to Mr Z. He's said that he was mis-sold the car, based on false advertising of the range the car could achieve. For me to agree that the car was misrepresented, there are two stages that need to be proven. The first is that Mr Z was given some false information about the car, and the second is that he relied upon this information in deciding to acquire the car. In other words, if he hadn't been told the wrong information, he wouldn't have entered into the finance

agreement.

Mr Z has said when raising the complaint with VWFS, and when he asked for this final Ombudsman decision, that the car wasn't able to achieve the 193 mile range as advertised prior to purchase/when he purchased it. He has denied that the salesperson had any discussion with him about real world range and the kind of things that can impact the range achieved, until he complained after he'd acquired the car.

I've thought about this, and whether a false statement has been given to him. There is no evidence of any conversation between the salesperson and Mr Z about the range of the car. This ties in with Mr Z saying that he was not told about "real world range" and the kind of things that might impact on the range he achieved.

Mr Z has also said several times about the 193 mile range being "as advertised". I've thought about this and considered the advertisement of this that he may have seen. 193 miles would be the range given as the maximum for the car, but in any printed material or other published advert such as on their website, the manufacturer references this and goes on to explain the test itself, how it's not real world conditions, and generally what sort of impact this can have. Alongside this, the dealership/VWFS have confirmed that if they are asked questions about range, their process is to refer a customer to the published information/the manufacturer website.

I empathise with Mr Z, as it's clear that when he realised that the real world range would not be 193 miles, he didn't want the car. But I've seen no evidence that he was given any false information. All published information for the car explains what the 193 mile range means, and how it's achieved. It also explains what sort of things will impact on achieving this range. I've seen no evidence that he was told anything different, and I can't envisage a situation where he would be told something different based on the sales process that the dealership has explained to VWFS. Equally, I've seen no evidence that would question the ability of the car to achieve the 193 mile range in the specific tests used to achieve that figure in laboratory conditions.

Mr Z has told us he didn't have a conversation with a salesperson about the range and real world conditions. When raising his complaint, he hasn't claimed a salesperson told him he would achieve 193 miles, he's said the car doesn't achieve the "advertised 193 mile range".

Unfortunately, on the balance of probability, I think Mr Z has seen a figure of 193 miles in the literature or on the website, and not read further or discussed the reality of this with a salesperson. If he'd checked the information, I'm sure he would have realised that this was not a realistic range when you take into account things like air temperature, traffic, road conditions, driving style, and things like tyre condition, whether heating is being used, lights are on, multimedia systems in use, etc etc.

But regarding misrepresentation, this means that the car was not misrepresented to him. The first test is whether he was given false information about the car, but he hasn't proved this was the case. He's told us that it's the dealer or salesperson's responsibility to highlight the real world range to him, but that isn't the same as him being given any false information.

All the published information I've seen is accurate and describes the impact on range of real world conditions, so I've seen no proof of him seeing any wrong information which induced him to enter the contract. I've also seen no evidence that leads me to believe a salesperson gave him any wrong information. As such, I can't agree that the car/agreement was misrepresented to him.

Overall, as I said, I do have empathy with Mr Z and his situation. But as I'm not persuaded

that either VWFS, or their broker (the dealership) has done anything wrong, I won't be upholding his complaint or asking them to do any more.

My final decision

I am not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Z to accept or reject my decision before 16 January 2024.

Paul Cronin
Ombudsman