

The complaint

Mr R complains about the quality of a car he acquired under a hire purchase agreement with Volkswagen Financial Services (UK) Limited trading as Audi Financial Services ("VWFS").

What happened

In May 2022 Mr R entered into an agreement with VWFS for a new car costing £87,300. Under the terms of the agreement, everything else being equal, Mr R undertook to make an advance payment of £6,000 followed by 48 monthly payments of £1,193.79 and 1 payment of £40,408.75 – making a total sum repayable of £103,710.67 at an APR of 6.7%.

In September 2022 Mr R's car was involved in an accident and went to an insurance appointed garage for repair.

In February 2023, after a possible fault with the steering wheel was identified, the car was moved from the insurance appointed garage to the original supplying dealership.

In February 2023, over the course of 9 days, the original supplying dealership supplied and fitted a new steering wheel to the car.

In February 2023 the car was moved from the original supplying dealership to the insurance appointed garage for accident repairs to be completed.

In February 2023 the car was returned by the insurance appointed garage to Mr R.

In May 2023 Mr R advised our service that:

- the steering wheel fault had been fixed
- the lane assist doesn't work and has never worked
- he was without his car between 5 September 2022 and 23 February 2023
- whilst without his car he had use of a like for like replacement but with a lower specification

Mr R's complaint was considered by one of our investigators who came to the view that it should be upheld in part and that VWFS should pay him £300.

VWFS agreed with the investigator's view, but Mr R didn't. And because of the latter Mr R's complaint has been passed to me for review and 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 can confirm that I've come to the same overall conclusions as the investigator and for broadly the same reasons. There is also very little I can usefully add to what has already been said.

I'm very aware that I've summarised this complaint above in far less detail than it may merit. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome. I will, however, refer to those crucial aspects which impact my decision.

Secondly, I would add that where the information I've got is incomplete, unclear or contradictory I've to base my decision on the balance of probabilities.

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 R 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 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, VWFS is 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 VWFS can show otherwise. But, where a fault is identified after the first six months, the CRA implies that it's for Mr R to show it was present when the car was supplied.

So, if I thought the car was faulty when Mr R took possession of it, and this made the car not of a satisfactory quality, it'd be fair and reasonable to ask VWFS to put this right.

Where goods were of an unsatisfactory quality at the point of supply, the CRA allows a 30-day short term right to reject. And, when this isn't exercised, then the supplier of the goods has a single chance at repair. To exercise a short term right to reject, the consumer would have to specifically ask to reject the goods – it's not sufficient just to identify and complain about any faults.

While I'm satisfied that Mr R asked to reject the car, these requests were made after his short term right to reject had expired and as such VWFS weren't and aren't required to accept rejection.

lane assist issue

Based on what both parties have said and submitted I'm satisfied there might be a fault with the lane assist. But there is simply insufficient evidence for me to be able to conclude that this fault was present or developing at the time of supply. Furthermore, even if this fault was present at the time of supply I'm not persuaded such a fault would have made the car of unsatisfactory quality. So, I don't uphold this aspect of Mr R's complaint.

steering wheel issue

It's not disputed that there was a steering wheel fault with the car when it was supplied to Mr R. But it's also not in dispute that this issue has been fixed and at no cost to Mr R. Given this, and under the terms of the CRA, Mr R doesn't have the right to reject the car for this issue, even though I appreciate his reasons for wanting to do so. So, in respect of this issue I won't be asking VWFS to take back the car and unwind the agreement.

Although the steering wheel issue has been fixed I think it's only fair that Mr R be paid something for the distress and inconvenience this issue has caused him.

I don't underestimate Mr R's strength of feeling on this point but given how quickly the original supplying dealership supplied and fitted a new steering wheel and given that Mr R had the benefit of a like for like (albeit lower spec) car for the period he was without his own I'm satisfied that the sum of £300 recommended by the investigator is both fair and reasonable.

For the sake of completeness I would add:

- I don't dispute that that prior to Mr R taking delivery of the car it's possible a fault code relating to the steering wheel wasn't adequately investigated and simply 'cleared' by the supplying dealership. But the fact remains that the fault with the steering wheel, which the 'cleared' fault code may or may not have related to, has been fixed and rejection of the car by Mr R would represent a disproportionate remedy.
- I appreciate Mr R believes that he has lost out financially by 'holding' on to the car and waiting for VWFS and our service to investigate his complaint. But ultimately the decision to 'hold' on to the car (rather than selling it) was Mr R's and I see no good reason as to why he should be compensated for this decision and his perceived loss in making it.
- Mr R says he should be compensated for driving around in a car that was dangerous and in a car that put his new-born baby at risk. However, I'm not persuaded the steering wheel fault made the car unsafe. But even if it did, Mr R didn't have an accident as a result of the steering wheel fault, he was unaware of the steering wheel fault until the car had been taken off the road for an unrelated matter and given that the car was only returned to the road when the issue with the steering wheel had been fixed.

In the light of Mr R's submissions to our service dated 12 September 2023 I accept that he will be disappointed with my findings. But for the reasons I've given I'm satisfied that in the particular circumstances of this case a fair and reasonable outcome to this complaint is for VWFS to pay Mr R £300.

My final decision

My final decision is that Volkswagen Financial Services (UK) Limited trading as Audi Financial Services must pay Mr R £300, but it need do nothing further.

My final decision concludes this service's consideration of this complaint, which means I'll not be engaging in any further consideration or discussion of the merits of it.

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

Peter Cook
Ombudsman