

## The complaint

Mr T complains that the car he acquired through a hire purchase agreement with Volkswagen Financial Services (UK) Limited trading as Skoda Financial Services (SFS) was mis-sold and not of satisfactory quality.

## What happened

Mr T entered into a hire purchase agreement with SFS to acquire a used car. He made an advance payment and was required to make 48 monthly repayments of around £663 followed by a final payment of around £22,298 along with a £10 purchase option fee if he wished to keep the car.

Mr T says that he paid a £500 deposit on 30 September 2022 based on a sales video conducted by the sales agent. On 3 October 2022, he paid the deposit balance and signed the agreement, prior to inspecting the car. He says he then pointed out the damage to the interior door trim to the sales agent and on 4 October provided evidence to the retailer of exterior damage. On 19 October 2022, Mr T told the retailer he wanted to reject the car under the short term right to reject as he said the car wasn't of satisfactory quality. He says that following this he has not been treated fairly and his credit file has been adversely affected and the stress has caused him serious mental health issues.

SFS said that Mr T raised his concerns with it on 25 October 2022. It spoke to Mr T on 18 November and Mr T said the retailer had agreed to collect the car, provide a courtesy car, and repair the bodywork. Based on this information it upheld Mr T's complaint noting there being a paint defect which the retailer had agreed to repair. Mr T then contacted SFS on 22 December saying he hadn't heard from the retailer and that he intended to cancel his direct debit. SFS advised that this would be a breach the terms and conditions of his agreement. On 23 December SFS was notified by the retailer that Mr T had abandoned the car with it. It said the retailer provided evidence that there were no scratches on the car at the point of supply apart from those on the interior door card which it accepted and had agreed to repair.

As Mr T didn't maintain his repayments, SFS sent him a default notice and then terminated his agreement. The car was collected from the retailer and sold at auction. SFS said that Mr T has an outstanding liability of £2,251.50.

Mr T doesn't think he has been treated fairly and referred his complaint to this service. Additional to the issue of the car not being of satisfactory quality, Mr T said that the car was mis-sold as he was told it was in '*super condition*' when it wasn't, and he was told when fully charged the car would have a mileage range of 313 miles which wasn't the case.

Our investigator didn't uphold this complaint. He said that the retailer carried out a 'multipoint check' on 3 October 2022 before the car was supplied and this didn't note any substantial damage or scratches that needed repair. While he noted the issues with the paint work, he didn't think this was enough to say the car wasn't of satisfactory quality at the point of supply.

In regard to Mr T's comment that the car was mis-sold, our investigator noted that the sales

agent said the car was in '*super condition*' but said this was a subjective statement. Our investigator noted that the official mileage ranges are based on factory tests rather than real driving conditions and lots of factors could affect the mileage range achieved. He said he hadn't seen anything to show that Mr T was guaranteed the car would have a 313-mile range and the advertisement made no mention of this. He didn't think he had enough to say these issues meant the car had been mis-sold.

Based on the above, our investigator didn't find the short term right to reject was applicable in this case.

Mr T raised concerns about the price he had paid, and the actions taken by SFS after the agreement was terminated. Our investigator said the Mr T was aware of the cost of the car at acquisition and had he been concerned about this he could have challenged it at the time or not gone ahead. In terms of the actions SFS took he said that as Mr T had breached the terms of the agreement, SFS was entitled to terminate the agreement and then sell the car.

Mr T didn't agree with our investigator's view. He said the damage to the door was enough to warrant a new door panel, but the inspection sheet said it was fine and there was damage elsewhere that wasn't identified. Given this he didn't agree that an inspection had taken place on 3 October. He reiterated that he was told the car's range was 313 miles when full but when he had charged it to full the range was dropping to 217 miles. He said at no point was he told the mileage range could be 30% less than he was advised. He said there was damage to the car which meant it wasn't in '*super condition*' as he was told. Mr T says the car wasn't of satisfactory quality and he should have been able to reject it when he requested this. He says the issues with the car have had a major effect on him, both in regard to his credit file and his mental health.

### **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.

Mr T has raised several issues regarding the electric car he acquired through a hire purchase agreement with SFS. He has also provided wider background to his situation and explained the impact the issues with this car are having on him. I am very sorry to hear of the upset Mr T has experienced and I am not underestimating the impact this has had and continues to have on his mental health. I also understand why he is so concerned about the effect this has had on his credit file and the impact it is having on his ability to get a mortgage. But as has been explained, our role is to consider each case on its individual merits and, while taking all relevant rules and regulations into account, to make a decision based on what we consider to be a fair and reasonable outcome given the information and evidence provided and the individual circumstances of the complaint. Having done this I do not find that I can uphold this complaint. While I know this will be upsetting for Mr T, I hope my reasons set out below will provide him with enough to understand why I have made this decision.

#### *Car of satisfactory quality*

Mr T acquired a used car financed by a hire purchase agreement. Under the regulations, specifically the Consumer Rights Act 2015 (CRA), SFS can be held liable if the car supplied wasn't of satisfactory quality. Satisfactory quality takes into account factors such as the car's age and mileage. In this case the car was less than a year old (around eight months) but had been driven around 19,000 miles. Given this, while it is reasonable to expect the car to be free from any major faults and sufficiently durable, it is also reasonable to expect that it would have suffered some wear and tear.

Mr T has explained that he didn't inspect the car before it was supplied. The retailer has provided copies of the photographs of the car taken for the advertisement and these do not show any damage. It has also provided a copy of a multi-point inspection report carried out on 3 October 2022. I note Mr T's comments about this inspection not taking place but given the information provided I find it reasonable to accept the inspection did take place.

Mr T noted the issue with the damage to the interior door panel and it was agreed this would be repaired and Mr T was sent an email dated 4 October saying a new door card had been ordered. Mr T also noted further scratches on the car's exterior. The retailer, in the 4 October email, said that once the door card arrived it would collect the car, provide a courtesy vehicle, and repair all the paintwork issues. I find this a reasonable response and as Mr T sent an email saying: *'The door panel should be a relatively simple fix, it's probably just a snapped clip. The scratches are in the lacquer and don't look as if they've gone through to the paint. A 2 stage polish and re seal would most likely solve them'* I find that he was happy at that time to accept the car subject to the offered repairs and that he accepted the offer of repair.

Mr T says that the issues he raised show the car wasn't of satisfactory quality at the point of supply. I take his comments, but Mr T accepted the car based on the agreement of the retailer to address the interior door panel issue and I do not find that the other scratches Mr T noted (and noting his comments about these) meant the car wasn't of satisfactory quality. As already noted, the car had been driven 19,000 miles at acquisition and so some wear and tear would be expected. Therefore, I do not find that the issues raised mean the car wasn't of satisfactory quality at acquisition.

Mr T wanted to reject the car, and this appears to be for a number of reasons, including the paint issues, comfort of the seats and the car's range. Under the CRA, a consumer has a short term right to reject if the car is found to be not of satisfactory quality, not fit for purpose or not as described. I have noted above that I do not find the evidence supports the car not being of satisfactory quality and I have nothing to suggest the issue with the comfort of the seats was due to any faults. Therefore, I do not find that Mr T had a short term right to reject based on satisfactory quality. I have considered the issues regarding whether the car was as described and fit for purpose below.

### *Mis-sale*

Mr T has said the car was mis-sold as it doesn't have the mileage range he was told, and it was described to him as being in '*super condition*' which he says should mean there were no defects. He has also noted the price he paid was too high. I have considered each of these concerns.

Mr T says he was told the mileage of the car when fully charged was 313 miles. I have no evidence of this statement as it wasn't included in the video provided of the sales agent walking round the car and it wasn't noted in the advertisement. So, while I note Mr T's testimony, I do not have details of how this information was presented, and nothing to suggest this mileage was in anyway guaranteed.

I have looked at the information available and can see from the manufacturer's website that a mileage range of over 300 miles is noted which supports the information Mr T was provided with. The range provided is based on certain conditions and I note Mr T understands this but says he would expect the infotainment system to show a higher number than the 227 miles (photograph provided) when fully charged. I understand the point made but having looked at the manufacturer's website it explains that the car needs to '*learn*' a driver's driving habits to calculate a range correctly. This range will then reflect these driving habits and conditions which is why the range can be different. In this case I find it likely that

the difference in the range was due to the driving style and conditions and I have nothing to suggest there was a fault with the car. So, without further evidence to show exactly how the mileage range was presented, or that it was guaranteed, I do not find I have enough to say that this issue means the car was misrepresented to Mr T.

Mr T was provided with a video by the sales agent in which he walks round the car. On this video the sales agent refers to the car being in '*super condition*'. Mr T doesn't agree with this. Mr T could see the condition of the car in the video, and the car does appear to be in good condition and so it isn't unreasonable that the sales agent would provide a positive comment on this. So, while I understand that Mr T doesn't consider the car to have been in '*super condition*' as this was a subjective observation rather than a statement of fact I do not find I can say this statement means the car was misrepresented to Mr T.

Mr T was aware of the cost of the car before he agreed to acquire it. Mr T has said that similar cars are available at a lower cost, but I do not find I have anything to suggest that Mr T wasn't fully aware of the cost of the car and I would expect him to have done some research before his acquisition to assess whether he felt the price it was offered at was reasonable.

Overall, I do not find that I have evidence to say that the car wasn't fit for purpose at the point of supply or that it was misrepresented to Mr T. Therefore, I do not find I can uphold this part of the complaint or say that Mr T should have been allowed to reject the car based on the above issues.

#### *Actions taken by SFS*

Mr T returned the car to the retailer in December 2022 and stopped making his payments under the agreement. While I appreciate Mr T was upset by the situation he was in and no longer wanted the car, it was made clear to him that rejection of the car wasn't being accepted. SFS also told Mr T that he needed to continue to make his payments, or his credit file could be affected. As Mr T acquired the car under a hire purchase agreement, he wasn't the owner of the car, as ownership remained with SFS until the final payment and purchase option fee had been made. He was required to keep the car in his possession and make his repayments. As Mr T chose to return the car to the retailer without any agreement for this to happen and didn't make his payments he was in breach of the terms of his agreement and so I cannot say that SFS was wrong to take further action.

SFS sent Mr T a default notice and so Mr T had the opportunity to prevent further action being taken. As Mr T didn't take the required action the agreement was terminated and following this the car was sold. While I appreciate Mr T doesn't think this should have happened, I do not find I can say that SFS was wrong to take this action. SFS has said that Mr T has an outstanding liability of £2,251.50.

Overall, while I am very sorry to hear of Mr T's circumstances and I do understand how distressing this must be, I do not find that I can say SFS did anything wrong in this case. Because of this I am unable to uphold this complaint. That said, as Mr T has explained his situation I would expect FS to treat him positively and sympathetically and to work with him in regard to the outstanding balance.

#### **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 Mr T to accept or reject my decision before 29 August 2023.

Jane Archer  
**Ombudsman**