

The complaint

Miss M complains that Volkswagen Financial Services (UK) Limited trading as Seat Finance ("VWFS") mishandled her complaint about the quality of a car she had acquired under a hire purchase agreement and the service she had received from the supplying dealer.

What happened

In August 2022 Miss M attended a dealership and found a car ("car 1") she wanted to purchase. She traded in her existing car and entered into a four-year hire purchase agreement with VWFS to finance her acquiring the car. This car was around two years old and had a mileage just under 14,000.

Miss M says that within only a few weeks the car's engine light illuminated and so she returned it to the supplying dealer for them to investigate. The dealership had the car for one week and provided Miss M with a courtesy car during that period, Miss M was unhappy about the condition of the courtesy car as it was dirty and had very little petrol in its tank.

Miss M says she was then told by the supplying dealer that a part needed to be ordered for her car. She was unhappy about the car's condition and worried that it wasn't safe to drive. She negotiated with the supplying dealership to take the car back in exchange for another one. The second car ("car 2") was also a used car, and a new hire purchase agreement was entered into by Miss M again with VWFS.

Miss M was unhappy as she says she didn't receive the full road tax fund she was due from DVLA for the car 1 and then in October VWFS tried to take a direct debit from her account for the first agreement. This direct debit was declined, and a missed payment notice was recorded on her credit file impacting her ability to obtain credit.

Miss M had a number of other concerns about the agreement for the car 2, including about the paperwork she had been provided and whether car 2 was in her name.

In February 2023 Miss M complained to VWFS about the quality of the car 1 and that it had sought to take a payment from her in October despite car 1 having been taken by the supplying dealer in part-exchange. VWFS didn't uphold her complaint. It said that the agreement for car 1 had still been live when the October payment had fallen due and so it had acted correctly in seeking the direct debit. VWFS said it wasn't until November 2022 that the dealership had settled the outstanding amount and it had now removed any adverse information from Miss M's credit file. It said it had correctly reported the missed payment.

Miss M was unhappy at the response from VWFS and complained to this service. She raised a number of issues about the service she'd received from the supplying dealership, the quality of car 1 and concerns about the paperwork of car 2 and whether it had been correctly registered in her name.

Our investigator explained that not everything she had raised could be considered by this service because they either weren't regulated activities (such as the refunding of the road tax, the warranty and the supplying dealer's service) or in the case of Miss M's concerns

about the second hire purchase agreement (the amount of interest charged, lack of paperwork) as these hadn't yet been raised with VWFS. Our investigator said she could only consider the issues Miss M had raised as to the quality of car 1 and the direct debit/missed payment.

Our investigator said she wasn't recommending that Miss M's complaint should be upheld as she didn't think VWFS had done anything wrong. Although car 1's engine light had illuminated, our investigator said there wasn't enough evidence to say what was wrong with the car and she thought Miss M had part-exchanged car 1 for car 2 as per the early settlement rights set out in the terms and conditions of the agreement. Our investigator said she didn't think the car had been rejected as per the Consumer Rights Act 2015 but rather handed back to the supplying dealer.

In regard to the October direct debit, our investigator said this had fallen due before the car had been part-exchanged for car 2 and so VWFS hadn't acted unfairly in seeking to collect it or then marking it as a missed payment.

Miss M disagreed with our investigator's view. She said everything arose from the same incident and so it was unfair this service didn't look at all of the matters she had raised. She said she was seeking reimbursement of the missing road tax amount, reimbursement of petrol costs travelling to the dealership, compensation for having to use an unsafe car (car 1), compensation for car 2 not being put in her name and compensation for the distress and inconvenience caused having to deal with it all. She also said she was unhappy at the interest rate charged on the hire purchase agreement for car 2 and that she hadn't heard from VWFS about anything raised as to this car.

As the parties were unable to reach an agreement the complaint has been passed to me.

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.

When looking at this complaint I need to have regard to the relevant law and regulations, but I am not bound by them when I consider what is fair and reasonable.

I'm afraid I'm going to disappoint Miss M by limiting my decision to the same things considered by our investigator. While I appreciate Miss M's view that her complaints all arise from the same cause, this service's remit is subject to certain rules. And this means it can't look at all the things she has raised. Firstly, the supplying dealership and VWFS are separate entities so VWFS isn't necessarily responsible for everything a dealership does. This service can only look at regulated activities such as the supply of a credit agreement to a consumer. And secondly, for this service to consider a complaint from a consumer it must have first been raised the business so it has an opportunity to investigate it and provide a response.

Car 1

As the hire purchase agreement entered into by Miss M is a regulated consumer credit agreement, then as set out above, this service is able to consider complaints relating to it. VWFS is also the supplier of the goods under this type of agreement and is responsible for a complaint about their quality.

Under the Consumer Rights Act 2015 there is an implied term that when goods are supplied the quality of the goods is satisfactory. The relevant law says that the quality of

the goods is satisfactory if they meet the standard that a reasonable person would consider satisfactory taking into account any description of the goods, price and all other relevant circumstances.

The relevant law also says that the quality of the goods includes their general state and condition, and other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability can be aspects of the quality of the goods.

Here the car was around two years old and had a mileage of 14,000 so some wear and tear would have been suffered by its components and repair and maintenance issues would be expected to arise after a reasonable period of time.

I've seen that Miss M complains that within only a few weeks the engine light illuminated, and the car was taken back to the supplying dealer. I appreciate Miss M was unhappy about the courtesy car she received but this was supplied by the dealer and not VWFS. There isn't anything in the hire purchase agreement that says if the car is taken in for investigation/repairs that VWFS supply an alternative vehicle. This means that any issues with the courtesy car aren't VWFS's responsibility.

I've seen that the supplying dealer kept car 1 for about a week. Miss M says she was told a part needed to be ordered but it seems agreed by Miss M that no repairs were carried out. The engine management light can illuminate for a number of reasons and so I can't reasonably say I have enough evidence to say there was a fault with the car.

Miss M says she told the dealership she didn't feel safe in the car. and it was agreed that the supplying dealer would accept the car back in part-exchange for another and a hire purchase agreement would be set up. At this point VWFS was unaware of any issue with the car and so wasn't able to investigate whether the car was of unsatisfactory quality or not.

If the car had a fault, then it's possible it may have been considered as not being of satisfactory quality which would mean that Miss M may have had the right to reject it and cancel the agreement. But I would need to see evidence that this was the case and as set out above there is no evidence of any repairs being carried out nor of any issues with the car save that the engine light was illuminated. So, I can't reasonably say that the car wasn't of satisfactory quality and that under the Consumer Rights Act Miss M had the right to hand it back.

As I can't say the car was either faulty or developing a fault from the point of supply then I don't think I can fairly ask VWFS to reimburse Miss M her petrol costs travelling to and from the supplying dealership. I also don't think I can reasonably ask it to pay Miss M compensation for dealing with a car that was unsafe as I don't have sufficient evidence to confirm that.

Miss M, having lost confidence with the car agreed with the supplying dealer to use it in part-exchange for another car. This was sorted out in October 2022. Any issue with the agreement for car 2 needs to be raised with VWFS so that it can make enquiries into that. I've seen VWFS has now opened a new complaint for Miss M. I agree with VWFS that her complaint about the hire purchase agreement for car 2 didn't form part of her original complaint to it about car 1. I therefore can't look at that matter until VWFS has provided its response to Miss M's complaint.

Miss M has raised an issue with the DVLA not reimbursing her the full amount due for an unused portion of the road tax she'd paid for. But it was the supplying dealer who notified the DVLA about when the car was sold by Miss M and as set out above this isn't a regulated

activity nor anything VWFS would be responsible for.

I've seen Miss M was unhappy about VWFS seeking the October payment under the agreement. But I don't think VWFS acted unfairly when doing so as at that time the hire purchase agreement for car 1 was still live and the payment. Miss M was still liable for the payment. The supplying dealership cleared this amount in November when it settled the agreement having purchased car 1. I think VWFS was therefore entitled to seek the payment and report it as missing. I've seen that VWFS has now removed this adverse information from Miss M's credit file which I think is fair and I wouldn't ask it to do more.

So, although I appreciate Miss M will find my decision to limit the scope of what I am looking at frustrating and will be disappointed with my decision, I'm not upholding her complaint. However her complaint about the hire purchase agreement for car 2 is still to be considered by VWFS.

My final decision

For the reasons set out above, I'm not upholding Miss M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 24 September 2023.

Jocelyn Griffith
Ombudsman