

## **The complaint**

Mr K complains that a car he acquired via a hire purchase agreement with Volkswagen Financial Services (UK) Limited trading as Audi Financial Services ("VWFS") wasn't of satisfactory quality.

## **What happened**

In July 2020 Mr K visited a dealership having seen a car advertised that he was interested in acquiring. The car around three years old and had a mileage of about 28,500. Mr K took the car for a test drive during which a tyre pressure warning light illuminated. He says the dealership agreed to rectify the issue before he took it away. Mr K agreed to purchase the car via a four-year hire purchase agreement with VWFS.

Mr K says he took the car abroad the day after acquiring it in order to use it for a trip that he had planned. On his outward journey, Mr K says the tyre pressure warning light kept coming back on although he put additional air in, and he also found the car was pulling to the side. Mr K says he later discovered that the rear wipers did not work properly nor did the rear sprinkler or the front sprinkler for the headlight. He says there was a knocking noise coming from the boot as it had a damaged lock.

Mr K decided to take the car to a local garage once he arrived at his destination for a check-up. He paid for the sprinklers to be repaired and also for two new tyres as a nail was found in one and the other was defective. He also paid for the tyres to be tracked. Mr K says the garage pointed out to him that the car had been poorly re-sprayed with the paintwork having irregular buffing and bubbles under the lacquer. It was also pointed out that the parking sensors had been painted over.

On returning to the UK, Mr K made a complaint to VWFS about the quality of the car. He asked that it reimburse him for the repairs he'd already had carried out and also pay to have the rear wiper, boot lock and paintwork repaired.

VWFS agreed for the car to undertake a service at a manufacturer approved garage. Mr K also asked the garage to inspect the car's paintwork. The garage confirmed the car had been repainted and offered him £250 as compensation, but Mr K decided not to accept that. The rear wiper was also repaired.

VWFS sent Mr K its final response letter to his complaint. It said that as the repairs Mr K had paid for had been undertaken abroad and not by a manufacturer approved garage it wasn't able to reimburse him. VWFS also said that the paintwork was cosmetic and so it wouldn't cover the costs of this as it was a used car.

Mr K was unhappy at VWFS's decision and complained to this service. Our investigator recommended that Mr K's complaint should be upheld. She said she was satisfied on the evidence provided that the car hadn't been supplied in a satisfactory quality. And although Mr K had had an opportunity to inspect the car before he'd agreed to acquire it, our investigator said she wasn't surprised he hadn't spotted the poor quality of the paintwork.

Our investigator said the manufacturer approved garage that had inspected the car had found the paintwork to be poor quality and had offered £250 compensation as a result. And although the car was used, our investigator said she didn't think that it was reasonable for a three-year old car to have such poor paintwork.

Our investigator said it would be fair for VWFS to cover the cost of the repairs to the boot lock and paintwork; reimburse Mr K the cost of the repairs he paid for while abroad and reimburse one quarter of a monthly payment under the agreement due to the time he was unable to use the car while it was fixed. She also said that VWFS should pay Mr K £200 compensation for the distress and inconvenience caused by dealing with the faulty car.

Mr K agreed with our investigator's view, but he has also said that he would agree to settle his complaint if VWFS paid him a total amount of £2,000 as compensation so that he can sell the car on. However, VWFS disagreed with our investigator's view. It said that Mr K had viewed the car before agreeing to acquire it and that under the Consumer Rights Act 2015 this meant Mr K couldn't later say that the paintwork, which had been visible to him, wasn't of satisfactory quality.

As the parties were unable to reach agreement then 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.

As the hire purchase agreement entered into by Mr K is a regulated consumer credit agreement 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 three years old and had a mileage of around 28,500. So, some issues of maintenance and repair would be expected over time. I also think that a reasonable person would expect there to be some minor issues with the paintwork due to wear and tear. However, Mr K says that he was advised the car had been the subject of a poor quality re-spray. And he has provided some photos to show the quality. I've also seen that the manufacturer approved garage he took the car to at the request of VWFS agreed the car had been resprayed and offered £250 compensation for that.

Looking at the evidence about the car's paintwork, I am satisfied that the car has been the subject of respray which wasn't of a reasonable standard. The paint is bubbling, has irregular buffing and the parking sensors have been painted over. However, VWFS says

that as the paintwork was visible to Mr K when he viewed the car then he has accepted its standard when he agreed to purchase it.

The Consumer Rights Act 2015 section 9 states:

*“(1 ) Every contract to supply goods is to be treated as including a term that the quality of the goods is satisfactory.....*

*(4)The term mentioned in subsection (1) does not cover anything which makes the quality of the goods unsatisfactory -*

*(a)which is specifically drawn to the consumer’s attention before the contract is made,*

*(b)where the consumer examines the goods before the contract is made, which that examination ought to reveal”.*

However, here I think that it’s fair when considering whether Mr K ought to have been aware of the state of the paintwork to take into account the following: that he does not appear to have been informed the car had been the subject of a respray; that it would be reasonable for Mr K not to expect a three-year old car to have required a full respray; that it was a mechanic who inspected the car who pointed out the paintwork faults; that the poor standard of the paintwork appears to have been endorsed by the garage offering compensation; that there’s no evidence the car’s price reflected the paintwork wasn’t of a standard expected on a car of that age and mileage and that Mr K bought the car very close to his trip and needed it for his travel meaning it was possible he missed the quality of the paintwork.

So, looking at the factors set out above I am satisfied that it is fair and reasonable in these circumstances to say that Mr K isn’t excluded from raising the standard of the car’s paintwork when complaining about its quality. And that it’s fair to consider VWFS as liable for the condition of the paintwork of the car.

In regard to the repairs carried out by Mr K when abroad, I’m satisfied on the evidence that the issues with the two tyres that required replacing are more likely than not linked to the tyre pressure warning light that illuminated during the car’s test drive and which the dealer said it would sort. I understand one tyre had a nail and the other was defective and Mr K has described the car as pulling to the side during both the test drive and after he acquired it. I am therefore satisfied that the two tyres replaced by Mr K were worn and/or damaged at the point of supply and it’s fair and reasonable for VWFS to reimburse him those costs. I also think it’s reasonable for VWFS to cover the cost of having the wheels tracked once these tyres had been replaced.

Mr K has complained that the boot lock is defective. He says this has been making a knocking noise since he acquired the car. I am persuaded by Mr K’s evidence that there is a fault with this lock and so I am asking VWFS to cover the cost of any repair required by this part.

I’ve seen that Mr K had to be without the car for around one week while it was repaired, as he lost the use of the car for this period it’s fair for VWFS to reimburse him for that.

I’m also satisfied that Mr K suffered distress and inconvenience having to deal with the faulty car. I agree with our investigator that £200 is fair and reasonable to address the impact on him.

So, for the reasons set out above I’m upholding Mr K’s complaint.

### **Putting things right**

I’m asking VWFS to do the following:

- Arrange for and cover the cost of the repairs to the car's boot look and paintwork and that this work should be carried out within a reasonable timescale from the date Mr K accepts my view.
- Reimburse Mr K the amount it cost him for the repairs he had done abroad (approximately £515.52) together with yearly interest at the rate of 8% simple from the date of payment until the date of settlement.
- Refund Mr K a quarter of one monthly rental to cover any loss of use together with yearly interest at the rate of 8% simple from the date of payment until the date of settlement.
- Pay Mr K £200 compensation for any distress or inconvenience that's been caused due to the faulty goods.
- Remove any adverse information from the customer's credit file in relation to the agreement.

If VWFS wishes to discuss with Mr K the alternative settlement of paying him a total of £2,000 compensation, then that is a matter it can raise directly with him.

### **My final decision**

For the reasons set out above I'm upholding Mr K's complaint. I'm asking Volkswagen Financial Services (UK) Limited trading as Audi Financial Services to do the following:

- Arrange for and cover the cost of the repairs to the car's boot look and paintwork and that this work should be carried out within a reasonable timescale from the date Mr K accepts my view.
- Reimburse Mr K the amount it cost him for the repairs he had done abroad (approximately £515.52) together with yearly interest at the rate of 8% simple from the date of payment until the date of settlement.
- Refund Mr K a quarter of one monthly rental to cover any loss of use together with yearly interest at the rate of 8% simple from the date of payment until the date of settlement.
- Pay Mr K £200 compensation for any distress or inconvenience that's been caused due to the faulty goods.
- Remove any adverse information from the customer's credit file in relation to the agreement.

If Volkswagen Financial Services (UK) Limited trading as Audi Financial Services wishes to discuss with Mr K the alternative settlement of paying him a total of £2,000 compensation, then that is a matter it can raise directly with him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 15 June 2022.

Jocelyn Griffith  
**Ombudsman**