

## **The complaint**

Mr O says a finance agreement he entered into with Vauxhall Finance plc ("Vauxhall Finance") was misrepresented to him.

## **What happened**

The details of this complaint are well known to both parties, so I won't repeat them again here. Instead I'll focus on giving my reasons for my 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.

I agree with the investigator's opinion that this agreement was misrepresented to Mr O.

Where the information I've got is incomplete, unclear, or contradictory, as some of it is here I have to base my decision on the balance of probabilities.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

Mr O acquired his car under a conditional sale agreement. This is a regulated consumer credit agreement and as a result our service is able to look into complaints about it.

Section 56 of the Consumer Credit Act (1974) explains that finance providers are liable for what they say and for what is said by a credit broker or a supplier before the consumer takes out the credit agreement.

So, if Mr O was given a false statement of fact by the supplier and if that led him to enter into a finance agreement he wouldn't otherwise have entered into, I would think the agreement had been misrepresented to him and the relevant legislation would allow me to hold Vauxhall Finance accountable for the misrepresentation.

I think Mr O was given a false statement of fact. I say that because the invoice and the order form both explained that the car came with the remainder of the manufacturer's warranty. That clearly wasn't the case as the service records show the first service wasn't completed in time before Mr O took receipt of the car and that invalidated the warranty.

I don't think Mr O would have been likely to proceed with the deal had he known the warranty had been invalidated. I think he'd have worried about future costs if the car broke down. So, I think the agreement was misrepresented to Mr O and I think Vauxhall finance should put that right for him.

## **Putting things right**

The normal remedy would be to put the consumer back in the position he would have been in had the misrepresentation not have taken place.

The investigator suggested the best way to do that was for Vauxhall Finance to take the car back, end the agreement and refund Mr O's deposit and I'd agree.

Whilst I understand Mr O has paid quite a bit towards the agreement I'm not persuaded there's a reason to structure the redress in any other way.

I've noted that Vauxhall Finance think rejection would be disproportionate here. I don't think that's the case because, as I've already explained, I don't think Mr O would have proceeded with the deal at all if it hadn't been for the misrepresentation.

Mr O will have been distressed to realise he didn't have the warranty he thought he had, and I can understand he would have been worried the car may breakdown and that he may be liable for repair costs. In the circumstances I think Vauxhall Finance should pay him £150 to reflect the distress caused.

## **My final decision**

For the reasons I've given above I uphold this complaint and tell Vauxhall Finance Limited to:

- Cancel the agreement with nothing further to pay.
- Collect the car at no further cost to Mr O if he agrees.
- If the car is returned refund Mr O's deposit and add 8% interest per year from the date paid to the date of settlement.
- Remove any information from Mr O's credit file.
- Pay Mr O £150 compensation for the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 18 April 2022.

Phillip McMahon  
**Ombudsman**