

## **The complaint**

Mr F is unhappy that a car supplied to him under a hire purchase agreement with Volkswagen Financial Services (UK) Limited (VWFS) was of an unsatisfactory quality.

Mr F is being represented in this complaint by his daughter. However, for ease of reference, I'll only refer to Mr F within my decision.

## **What happened**

On 24 July 2020, Mr F was supplied with a new car through a hire purchase agreement with VWFS. He paid an advance payment of £2,250 and the agreement was for £20,390.17 over 49 months; with 48 monthly repayments of £275 and a final optional payment of £10,507.50 if he wanted to keep the car. Mr F has said that he acquired the car with the intention of his daughter being the main driver.

Mr F said he had problems shortly after being supplied with the car with an intermittent fault on the media unit and the start/stop function deploying on several occasions. A local dealership provided wires for the media unit as an alternative to the faulty Bluetooth connectivity, but Mr F had difficulties arranging to take the car back to the supplying dealership because of the Covid-19 pandemic, and the government imposed lockdowns.

The supplying dealership took back the car on 30 May 2021 to do a software update. They kept the car for four days, during which time Mr F wasn't provided with a courtesy car. But, after the car was returned to him, Mr F complained that the faults still existed. The supplying dealership made another unsuccessful attempt to fix the car in June 2021. And, in July 2021, Mr F part-exchanged the car because of the problems he was still experiencing. The replacement car was financed by an agreement in Mr F's daughter's sole name.

Mr F complained to VWFS. But they said that he'd waited more than six months before raising any issues with them. So, they didn't think the car would've been faulty at the point of supply. Mr F wasn't happy with this and he brought his complaint to us for investigation.

To put things right, Mr F asked for VWFS to pay the additional £500 his daughter had to pay as a deposit on the replacement car, as well as the additional £25 a month she was paying under the new agreement. He also wanted VWFS to cover the cost of his daughter's physiotherapy appointments as he said she'd been injured due to the start/stop failure.

Our investigator said Mr F had been provided with a brand-new car. And, from the evidence she'd seen, she was satisfied there was an intermittent fault that'd been present since shortly after supply. And this hadn't been fixed, despite attempts to do so. So, she said that the car wasn't sufficiently durable, and this made it of an unsatisfactory quality.

Because Mr F had already part-exchanged the car, it wasn't possible to allow him to reject it. So the investigator thought VWFS should refund him 15% of the payments he'd made, for the impaired usage he had given the faults, and refund the equivalent of four days payments to cover the time the car was in for repair, but no courtesy car was supplied. And she said

VWFS should also pay statutory interest on these amounts and an additional £150 to compensate Mr F for the distress and inconvenience he'd suffered.

However, because this agreement was in Mr F's name, and because he'd benefitted from the equity in the car when he part-exchanged it; the investigator didn't think it was fair for VWFS to pay anything towards his daughter's agreement on the new car. Nor did she think that VWFS were responsible for Mr F's daughter's medical expenses as she wasn't party to the original agreement and Mr F hadn't declared that she was going to be the main driver.

VWFS agreed with the investigator, but Mr F didn't. While he agreed the car was faulty, he didn't think the remedy was sufficient. He also said that his daughter only took out a new agreement on a different car because of the issues with this car. And, as such, believes that both agreements need to be considered.

Because Mr F didn't agree with the investigator, this matter has been passed to me to make a final 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've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

Mr F 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 Consumer Rights Act 2015 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 are responsible. So, if the car was faulty when Mr F took possession of it, and this fault made the car not of a satisfactory quality, it'd be fair and reasonable to ask VWFS to put this right.

Both Mr F and VWFS have accepted the car was faulty, and this fault made the car not of a satisfactory quality when it was supplied. Given this, I won't repeat the circumstances and facts relating to the fault. Instead I'll focus on what I consider to be a fair remedy.

While the agreement was taken out in Mr F's name, he's said that the car was mostly to be used by his daughter. And presumably his daughter would make the payments. Given this, I understand why Mr F thinks that this agreement is linked to the agreement his daughter took out on a replacement car.

However, because this agreement was in Mr F's sole name, and the new agreement was in his daughter's sole name, these two agreements aren't linked in the eyes of the law – Mr F and his daughter are separate individuals. Because of this, I won't be considering Mr F's daughter's agreement, including the additional deposit she paid and the difference between the payments on the agreements, as part of the remedy.

### **Putting things right**

There was an intermittent issue with the media unit on the car. And, despite attempts to fix this, the faults remained. There was also a sporadic fault with the stop/start function, which caused the car to stop while it was being driven on several occasions.

As Mr F was supplied with a brand-new car, it's reasonable for him to assume that it would be in full working order and would remain so for a reasonable period of time after it was supplied. And, given the faults detailed above, this wasn't the case. So, while these faults didn't stop the car being used, they did impair the usage and enjoyment of the car.

The investigator recommended VWFS refund Mr F 15% of the payments he'd made to compensate him for this impaired usage. And, had this not already been recommended, this is something I would've asked VWFS to do. While Mr F doesn't think this compensation is sufficient, he hasn't provided anything to show why the intermittent faults with the car caused a greater impact than the investigator had already considered. As such, I see no compelling reason to increase this payment.

It's also not disputed that, in May 2021, the supplying dealership had the car for four days while unsuccessfully trying to repair it. And, because no courtesy car was provided, this left Mr F without transportation. I haven't seen anything to show me what (if any) transport costs Mr F incurred during these four days. Given this, I think it's fair VWFS refund the equivalent of four days payments instead to compensate Mr F for the time he was paying for the car but didn't have either use of it or a replacement.

Finally, it's clear from what I've seen that Mr F suffered the inconvenience of having intermittent faults with the car, and from having to take time out to try and get this resolved. Because of this, I'm in agreement with the investigator that VWFS should compensate him for this.

So, VWFS should:

- refund 15% of the monthly payments Mr F paid;
- refund Mr F the equivalent of four days payments, to cover the period he was without use of the car;
- apply 8% simple yearly interest on the above refunds, calculated from the date Mr F made the payments to the date of the refund<sup>†</sup>;
- remove any adverse credit relating to this agreement from Mr F's credit file; and
- pay Mr F an additional £150 for any distress and inconvenience he'd been caused.

<sup>†</sup>HM Revenue & Customs requires VWFS to take off tax from this interest. VWFS must give Mr F a certificate showing how much tax they've taken off if he asks for one.

### **My final decision**

For the reasons explained, I uphold Mr F's complaint. Volkswagen Financial Services (UK) Limited must follow my directions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 8 July 2022.

Andrew Burford  
**Ombudsman**