

The complaint

Mr A complains about the quality of a car he has been financing through an agreement with Volkswagen Financial Services (UK) Limited ("VWFS"), trading as Audi Financial Services.

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 know it will disappoint Mr A, but I agree with the investigator's opinion. Please let me explain why.

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 A acquired his car under a hire purchase agreement. This is a regulated consumer credit agreement and as a result our service is able to look into complaints about it.

The Consumer Rights Act (2015) is the relevant legislation. It says, amongst other things, that the car should have been of satisfactory quality when supplied. If it wasn't then VWFS, who are also the supplier of the car, are responsible. The relevant law also says the quality of goods is satisfactory if they meet the standard that a reasonable person would consider satisfactory taking into account any description of the goods, the price and all the other relevant circumstances.

In a case like this which involves a car the other relevant circumstances would include things like the age and mileage at the time the car was supplied to Mr A. The car here was brand-new so I don't think a reasonable person would expect it to have any faults.

The relevant legislation explains that if the fault occurs within the first six months we are to assume it was present at the point of supply, when VWFS were responsible for the car's quality, unless they can demonstrate otherwise.

I'm persuaded there was a fault with this car when it was supplied as the job cards show there was a wheel alignment carried out in March 2020, four months after receipt.

The relevant legislation gives the business one opportunity to repair a fault present at the point of supply and I think VWFS had that opportunity in March 2020.

I think the subsequent inspections and the testimony of Mr A suggest that repair was unsuccessful. The inspection in August 2021 noted a degree of body roll and a further inspection commissioned by Mr A in December 2021 identified understeer and corroborated Mr A's concerns that the suspension wasn't absorbing road noise effectively and felt loose. That inspector also noted that the offside rear wheel was off angle.

In those circumstances the relevant legislation suggests the consumer should be allowed to reject the car. I think that's what VWFS should do.

I understand that Mr A thinks the car supplied to him was the one he originally ordered that had sustained damage. I don't think I've been provided with sufficient evidence to suggest that was the case. I've not considered those issues in this decision as the initial vehicle wasn't financed under this agreement and it's only that I'm considering here. That means I haven't been able to consider refunding any costs Mr A incurred as a result of the faults with the first car.

Putting things right

VWFS should end the finance agreement. They'll need to collect the car at no cost to Mr A and they should refund his deposit, adding interest as Mr A has been deprived of that money.

They'll also need to refund the £79 Mr A had to pay to emergency breakdown services when he was stopped by the police over concerns the car was "sidewinding", and the cost of the most recent independent inspection Mr A had to commission to demonstrate the persistent faults. Neither of those costs would have been incurred if the car was of satisfactory quality. VWFS will need to add interest to those refunds as well as Mr A has been deprived of the money.

I've considered whether Mr A has experienced any loss of use as a result of these issues. There was clearly a need to return the car to the dealership on occasion to have the fault looked at, but I think that, and any distress and inconvenience, has been covered by VWFS awarding Mr A some compensation already. Thereafter, I can see that Mr A managed to complete over 20,000 miles in the car in just over two years. That's about average mileage so I don't think it would be fair to say that Mr A's use of the car has been less than it would have been without the problems he's experienced.

But I do think his enjoyment of the car would have been impacted. I understand Mr A isn't happy with the investigator's suggestion VWFS refund 10% of finance instalments in respect of the loss of enjoyment Mr A has experienced. But I think 10% from the point at which the fault was reported is fair in the circumstances, and I'm not asking VWFS to pay any more.

My final decision

For the reasons I've given above I uphold this complaint and tell Volkswagen Financial

Services (UK) Limited to:

- End the finance agreement and collect the car at no cost to Mr A.
- Refund any deposit paid and add 8% simple interest from the date of payment to the date of settlement.
- Refund 10% of all finance instalments paid since March 2020 in respect of the loss of enjoyment Mr A has experienced. Add 8% simple interest from the date of payment to the date of settlement.
- Remove any negative reports they may have made to Mr A's credit file in relation to this issue.
- Refund the £79 Mr A paid for the emergency breakdown service and the cost of his independent inspection. Add 8% simple interest from the date of payment to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 26 August 2022.

Phillip McMahon
Ombudsman