

## **The complaint**

Mr G acquired a new car in June 2021, by means of a 49-month conditional sale agreement with Vauxhall Finance plc. He complains that the car was not of satisfactory quality at the point of supply. He wants Vauxhall to agree that the car should be rejected.

## **What happened**

Mr G said that his car exhibited a fault in its electric traction system soon after he acquired it. Its dashboard warning system indicated that this type of fault had occurred. The supplying dealership undertook diagnostic tests on it in November 2021 but was unable to replicate the fault.

Mr G complained to Vauxhall Finance in mid-December 2021, asking to reject his car. It explained to him that, because he had complained more than 30 days but less than six months after the point of supply, the dealer must be allowed an opportunity to repair his car. Rejection would only become a possibility if repair was unsuccessful.

Mr G continued to have problems with the traction system, and the warning system still indicated a fault. He returned his car to the dealer in late-December 2021 for diagnosis and repair. The dealer undertook further tests but was again unable to replicate the fault.

Mr G returned his car to the dealer once more in mid-January 2022 and, at the same time, asked Vauxhall Finance again to reject his car. The dealer ordered a replacement component, which took many weeks to arrive. The dealer then completed a second repair and returned the car to Mr G in mid-March 2021.

Mr G was kept mobile, when his vehicle was with the dealer, by temporary replacement (courtesy) cars – although on one occasion he needed to pay £130 towards insurance of a replacement car. Mr G also complained that the replacement cars were of a lower specification than his vehicle.

Vauxhall wrote to Mr G in late March 2022, saying that the car had been successfully repaired, and so it was unable to uphold his complaint. But it offered Mr G compensation of £150 for the inconvenience he had experienced. Mr G disagreed with this outcome and referred his complaint to us.

Our investigator thought the complaint should be upheld. She said:

- Based on the evidence provided by Mr G and Vauxhall Finance, she felt it was more likely than not that his car was faulty
- Because Mr G complained about this fault to Vauxhall Finance in November 2021 (five months after acquisition), it was also more likely than not that the fault was present or developing at the point of supply
- On that basis, and because Mr G acquired a brand-new vehicle, it is fair and reasonable to conclude his car was not of satisfactory quality at the point of supply
- Although Mr G asked Vauxhall Finance in December 2021 to agree that his car should be rejected, a correct decision was made – that the supplying dealership should firstly be given the opportunity to undertake a successful repair of his car
- The first repair undertaken by the dealer was unsuccessful, because it undertook a second repair to address the same problem
- Mr G did not consent to this second repair – and Vauxhall Finance's records show that, instead, he repeated in January 2022 his request to reject the car
- Vauxhall Finance should then have decided to approve rejection, because –
  - the first repair was unsuccessful
  - Mr G repeated his request before the second repair was started
- Mr G should receive compensation for trouble and upset caused by his faulty car, including the adverse impact on his use of this vehicle – and Vauxhall Finance increased its compensation from £150 in cash to £350 in vouchers
- But Mr G was kept mobile when his vehicle was with the dealer, and Vauxhall Finance was not contractually required to provide courtesy cars – so, compensation for the lower specification of these cars would not be appropriate

Our investigator recommended that Vauxhall Finance should:

1. End its agreement with Mr G, with nothing further to pay
2. Remove any adverse information relating to this agreement it may have recorded on Mr G's credit file
3. Collect Mr G's car at no further cost to him
4. Refund Mr G's deposit, plus interest
5. Pay Mr G directly (in cash) compensation of £350 for the trouble and upset he experienced

Vauxhall Finance disagreed with our investigator, saying that Mr G's car was fixed with his consent, and that he has subsequently had use and enjoyment from his vehicle. So, this complaint was referred for review by an ombudsman.

### **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.

Where evidence is incomplete, inconsistent, or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider most likely to have happened considering the available evidence and wider circumstances.

Vauxhall has a responsibility to ensure that goods of satisfactory quality, and corresponding to their description, have been supplied. This means a reasonable person would have regarded the goods as satisfactory, considering all relevant circumstances. But there are limits to these responsibilities. In particular, matters complained about must be present or developing at the point of supply.

On the balance of probabilities, I agree with our investigator that Mr G's car was not of satisfactory quality at the point of supply, for the same reasons:

- A high-quality standard is expected in a brand-new car costing more than £26,000 – the electric traction system fault identified did not prevent Mr G making use of his car, but it significantly detracted from the performance of a key feature of his vehicle
- The supplying dealership had difficulty in replicating the fault on its premises – but the car's dashboard warning system gave credence to Mr G's complaint that the fault had occurred, albeit not constantly
- The fault was reported to Vauxhall Finance within six months of acquisition – which meant the onus was on Vauxhall Finance either to show that the fault was not present or developing at the point of supply, or to accept responsibility (shared with the dealer) for it
- No evidence was presented to suggest that the fault was absent at the point of supply

I also agree with our investigator that, when Mr G returned his car to the supplying dealership in January 2022, Vauxhall Finance should have approved his request to reject his car:

- Mr G's car was seen by the supplying dealership on three occasions:
  - In November 2021, when the dealer did not replicate the fault
  - In late-December 2021 for the same fault, after Mr G had complained to Vauxhall Finance asking to reject his car, but the dealer was given the opportunity to undertake a successful repair
  - In mid-January 2022 for the same fault, when Mr G again asked Vauxhall Finance to reject his car
- It appears from the above to be more likely than not that the dealer failed to undertake a successful repair in late-December 2021
- In my view, the fault was of sufficient significance that it was unfair and unreasonable not to approve rejection in mid-January 2022

So, I agree with our investigator's conclusion that Mr G's complaint should be upheld.

### **Putting things right**

I agree as well with our investigator's recommended redress. Her first four recommendations are consistent with rejection of a car that is not of satisfactory quality at the point of supply.

In my view, our investigator's fifth recommendation fairly and reasonably reflects the trouble and upset caused to Mr G by:

- The car he acquired not living up to the standards expected of brand-new vehicles
- The resulting inconvenience caused by having to deal with a significant fault
- The unwillingness of Vauxhall Finance to accept that rejection was the appropriate remedy, when the supplying dealership failed to undertake a successful repair of his car

## **My final decision**

For the reasons explained above, my final decision is that I uphold this complaint. In full and final settlement, I order Vauxhall Finance plc:

1. To end its agreement with Mr G, with nothing further to pay
2. To remove any adverse information relating to this agreement it may have recorded on Mr G's credit file
3. To collect Mr G's car at no further cost to him
4. To refund Mr G's deposit, plus interest at 8% per annum simple from the date of payment to the date of settlement
5. To pay directly to Mr G compensation of £350 for the trouble and upset he experienced

If Vauxhall Finance considers that it must deduct tax from the interest element of my award, it should send Mr G a tax deduction certificate when it pays him. He can then try to reclaim the tax if he is entitled to do so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 19 January 2023.

Roy Mawford  
**Ombudsman**