

The complaint

Mr K complains Volkswagen Financial Services (UK) Limited ("VWFS") supplied him with a car that he believes wasn't of satisfactory quality.

Mr K is represented by his father but for the purposes of this decision, I will refer to Mr K as the agreement is in his name.

What happened

In December 2019, Mr K entered into a 49 month personal contract purchase agreement (PCP) for a new car. The car cost over £26,300. He paid a deposit of £5,000 and he was required to pay instalments of £271 followed by an optional final payment of about £8,900.

In June 2020, Mr K reported smoke was coming from the car and there was an alleged small fire in which fire services were called. The car was later taken to the dealership. They said some fuses had melted, but not blown. They believed the damage was caused by an external heat source rather than an electrical fault. Mr K also reported issues with the brakes but the dealership found no fault.

Mr K complained as he thought he'd been supplied with a faulty car. VWFS issued a final response in August 2020 saying there was no fault with the brakes and the fire was caused by an external influence.

In September and November 2020, Mr K reported issues with the control unit, central locking and the voltage control unit (J519 car part). Further repairs were carried out on both occasions. In July 2021, Mr K said there were ongoing issues with the control unit. He returned the car to a manufacturer approved garage. Mr K complained again as he remained dissatisfied with the car.

VWFS said these most recent issues were reported 11 months after the car had been supplied and they didn't have an ongoing liability as issues with the car may develop over the course of the agreement. They offered to end the agreement by voluntary termination at no cost to Mr K, refund the £5,000 deposit, refund six weeks of monthly instalments (£408) and pay Mr K £250 for the trouble and upset he'd been caused.

Dissatisfied with their response, Mr K referred the complaint to our service. Our investigator said for the first complaint concerning the issues reported in June 2020, Mr K had referred the complaint too late to our service, meaning we couldn't look at it. However in relation to the later complaint concerning the electrical faults, she concluded the car wasn't of satisfactory quality and recommended VWFS carried out a number of measures to put things right.

Mr K disagreed and said all events should be considered and the resolution proposed by the investigator wasn't enough, especially concerning his expenses that he believed VWFS should reimburse him for.

As an agreement couldn't be reached the complaint was passed to me to decide. Since then

VWFS has provided their consent for our service to consider the events that were the subject to their final response in August 2020 (the initial complaint). I have therefore considered whether Mr K was supplied with a car of satisfactory quality, taking into account amongst other things, the car's full history.

In October 2022, I issued a provisional decision outlining my intentions to uphold the complaint. I said:

"Mr K acquired a car under a regulated hire purchase agreement. VWFS was the supplier of the goods meaning they are responsible for a complaint about the supply and the quality of the car.

The Consumer Rights Act 2015 (CRA) is relevant to this complaint. It says that under a contract to supply goods, there is an implied term that "the quality of the goods is satisfactory". To be considered "satisfactory", the goods would need to 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 involving a car, the other relevant circumstances a court would take into account might include things like the age and mileage at the time of supply and the car's history.

In this case, Mr K was supplied with a brand new car so it would be reasonable to expect the quality of it to be higher than a more well used one and it would be free from defects and for a significant amount of time.

Based on the evidence such as job cards and the report from the fire service in June 2020, it's clear there was an issue with the fuses. It had melted causing smoke to come from the car and there was a small fire. Both the dealership and VWFS maintain that the evidence isn't consistent with an electrical fault. In summary, they say this is because the fuses hadn't blown, there was no sign of the fuse holder being damaged nor evidence of a heat source from the car. They concluded the fault must've be down to an external heat source however I note they are unable to identify or suggest what that might be. Based on what I've seen, there is insufficient evidence for me to reasonably say Mr K had purposely or deliberately caused the fault with the fuses so I find it was most likely caused by the car itself.

I've already set out the expectations of a brand new car. At the time of the incident, the car was approximately six months old and it had covered around 15,600 miles. I don't think a reasonable person would expect this car, with its age and mileage, to experience such a fault. I'm satisfied it's most likely the issue was an inherent manufacturing fault and it was present or developing at supply. Therefore I find the car wasn't of satisfactory quality when supplied, meaning there was a breach of contract.

When this happens and it's outside the first 30 days of supply, the relevant law allows one opportunity for repair and this should be at no cost to Mr K, which is what happened here. The fuses were replaced by the dealership and around mid-July 2020, Mr K was told he could collect it and it was fine to drive.

However shortly thereafter, in September 2020, the car broke down. The breakdown report states the fuses were in the wrong location and there were other electrical issues with the door control module and central locking. I note by that time, the car had only covered approximately 400 miles since the incident in June 2020.

In November 2020, the car stopped working and faults were found to the voltage control unit. The car was returned to the dealership for repair. A further breakdown report showed there was another fault with the control unit in July 2021. By that time, the car had travelled over 35,000 miles. Although the car wasn't working, no repairs were carried out.

As mentioned above, the CRA allows one opportunity for repair and it's worth highlighting this applies to the entire car not one repair for each component. If this repair doesn't fix the faults or others remain, the law allows Mr K to reject the car. In this case, the car was returned for repair on more than one occasion, namely in June, September and November 2020 so it's evident faults remained with the car. Mr K said he doesn't want any further repairs. Taking everything into account, I find the fair and reasonable resolution to this complaint is for Mr K to now be allowed to reject the car.

How to put things right

The agreement should end with nothing further to pay, the car should be collected at no cost to Mr K, the deposit refunded and adverse information about this agreement should be removed from Mr K's credit file.

Between June 2020 and July 2020, the car was with the dealership for about six weeks. VWFS has agreed to refund the equivalent of six weeks of contractual payments except Mr K has provided invoices for about 60 days of hire car use. However, I'm not persuaded I can fairly require VWFS to pay this. I say this because based on the information presented to me, the dealership provided a courtesy car during the initial repairs in June 2020. Also I've seen email correspondence from the dealership to show the car was ready for collection but it appears Mr K delayed in collecting it for some weeks. Overall, I find Mr K was without his car as a direct result of VWFS' actions for only about six weeks. So I find to put things right, they should refund him six weeks worth of contractual payments.

I'm aware VWFS has already agreed to take back the car. But they said they would do so on a voluntary termination basis as a gesture of goodwill, without liability of fault. But as explained above, I find there was a breach of contract – Mr K was supplied with a car which wasn't of satisfactory quality - so I intend to require them to allow Mr K to reject the car.

As a result of the faults, Mr K said he lost faith in the car and he didn't feel safe driving it. Given what had happened and the number of times it had broken down, I can understand why he would feel that way. He brought the car to a manufacturer approved dealership in July 2021 and it's been there ever since. This has meant Mr K has been without the car since then and he has had to arrange alternative modes of transport. He's said he has continued to pay his monthly instalments and kept the car insured and taxed as required by the terms of the agreement.

On that basis, I consider VWFS should refund the monthly instalments from July 2021 onwards, as that's when Mr K stopped using the car. They should also refund the cost of insurance and tax from July 2021 up to when the car is collected, subject to evidence of those costs being provided.

VWFS may argue that from August 2021, they were prepared to end the agreement and take back the car but it was Mr K who was refusing to accept their offer so they shouldn't be required to reimburse him costs such as the insurance and tax. While I accept VWFS had made an offer, this was without them accepting the car wasn't of satisfactory quality. Mr K didn't believe it was sufficient as it failed to compensate him for all his losses and I agree. He should be compensated for the expenses as result of being supplied with a faulty car.

I agree the cost of the fire report (£75) should be refunded. Given Mr K replaced the brakes around four weeks before the further breakdown in July 2021 and the tyres two weeks prior, I don't find he's had the benefit of the same. Therefore VWFS should refund the cost of the tyres and brakes. From my understanding, Mr K has since bought another car because he was unable to use the one subject to this agreement. He believes he should be

compensated for this. However as I'm already requiring the return of the instalments from July 2021 onwards, I won't be asking VWFS to reimburse any costs relating to the purchase of another car.

Lastly, I've carefully thought about the impact this situation had on Mr C, including, not limited to the inconvenience of multiple trips to the dealership, the frustration of being told the car was fine to drive but then encountering further faults, and the hassle of having to arrange alternative travel. Given the circumstances, I find VWFS should pay £300 compensation to Mr K for the trouble and upset caused".

Response to the provisional decision

VWFS said they had no further comments or evidence to add. Mr K said he accepted the findings but he also said the following:

- He didn't feel the £300 compensation was enough given the accusations made against him by VWFS and the dealership about the faults with the car;
- VWFS aren't being punished. Instead they will simply be refunding what he has already paid to them;
- The car isn't safe and once it's collected it may be sold to another individual without knowledge of its history or its faults.
-

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 thank both parties for their prompt responses. Concerning Mr K's comments, I must stress our role isn't to punish financial businesses. Instead we consider the individual circumstances of a case and in the event we find there was a failure by the business, we determine what is needed to put things right and that's what I've done in this case. I'm unable to comment on what will happen with the car once it's collected, nor am I able to tell VWFS what to do with it. I can assure Mr K that I've carefully taken into consideration the impact of the situation on him, having done so I remain of the opinion £300 is a fair amount of compensation given the trouble and upset caused.

On the basis I haven't been provided with any further information or evidence to change my decision I still consider my findings to be fair and reasonable in the circumstances. Therefore, my final decision is the same for the reasons as set out in my provisional decision.

My final decision

For the reasons given above, I've decided to uphold Mr K's complaint.

To put things right, Volkswagen Financial Services (UK) Limited must:

- End the agreement with nothing further for Mr K to pay;
- Collect the car at no cost to Mr K;
- Refund the £5,000 deposit*;
- Refund the equivalent of six weeks monthly instalments for loss of use in June 2020*;
- Refund the monthly instalments from July 2021 onwards*;
- Refund the cost of the fire incident report collected (subject to evidence)*;

- Refund the cost of insurance from July 2021 up to when the car is collected (subject to evidence)*;
- Refund the cost of tax from July 2021 up to when the car is collected (subject to evidence) *;
- Refund the cost of the tyres and brakes (subject to evidence)*;
- Remove any adverse information about this agreement from Mr K's credit file;
- Pay £300 compensation for the trouble and upset caused.

*VWFS should also pay 8% simple interest per year on all the above refunds calculated from the date of payment up to the date of settlement.

If Volkswagen Financial Services (UK) Limited considers tax should be deducted from the interest part of my award it should provide Mr K with a certificate showing how much it has taken off, so he can reclaim that amount if he is entitled to do so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 23 November 2022.

Simona Charles
Ombudsman