

## **The complaint**

Miss S complains that Volkswagen Financial Services (UK) Limited trading as Volkswagen Financial Services (VFS) refused to let her reject a faulty car.

## **What happened**

In September 2020 Miss S acquired a new car cost £26,824 funded by a deposit and a hire purchase agreement. Shortly after this she encountered a number of issues seemingly connected to the infotainment and electronics systems.

The information this service has received has been piecemeal and the business supplied the repair history for a different car, but Miss S and the business have given us some material which shows that the car was back in the garage on several occasions.

I have noted that Miss S formally rejected the car on 26 February 2021 citing the following reasons:

- Car alarm going off for no reason
- Travel assistance going off
- Front and rear assistance going off
- Lane assistance does not work
- Parking sensor intermittently do not work
- Automatic emergency brake applied when reversing
- Dashboard display – radio – telephone not working

At the time of rejection Miss S says the car had been back to the garage twice. This rejection request was refused and I can see that the car was back in the garage in August, October, November and December 2021. During this period some faults were identified and addressed, but others could not be replicated and so were not repaired.

Since then Miss S has sent this service photographic evidence in support of her claim that the car continued to be faulty. In December 2021 she says the hazard warning was limited, the parking brake not working and the parking sensor wasn't working. In January 2021 she says the travel assistance warning wasn't working, there was no radio or phone function, random hazard lights came on and the lane assistance not working.

Miss S contacted VWFS, but it rejected her complaint in April 2021 as it said the garage had been unable to find most of the faults. It said those which had been found had been repaired. She brought a complaint to this service where it was considered by one of our investigators who didn't recommend it be upheld. She accepted that the faults which had been found had been repaired and the others could not be found by the garage.

Miss S continued to submit evidence of the ongoing issues as set out above.

I issued a provisional decision which read as follows:

“In considering what is fair and reasonable, I need to have regard to the relevant law and regulations, regulator’s rules, guidance and standards and codes of practice and (where appropriate) what I consider to have been good industry practice at the time.

The finance agreement, that is the hire purchase agreement, in this case is a regulated consumer credit agreement. As such this service is able to consider complaints relating to it. VWFS is also the supplier of the goods under this type of agreement, and responsible for a complaint about their quality.

The relevant law says that under a contract to supply goods, there is an implied term that “the quality of the goods is satisfactory”.

The relevant law says that the quality of the goods is satisfactory if they meet the standard that a reasonable person would consider satisfactory taking into account any description of the goods, price and all other relevant circumstances. So it seems likely that in a case involving a car, the other relevant circumstances a court would take into account might include things like the age and the mileage at the time of sale and the vehicle’s history.

Under the relevant law the quality of the goods includes their general state and condition and other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability can be aspects of the quality of the goods.

As our investigator has said it is clear that the car was faulty at the point of sale. The car was new and it is expected that it should perform without fault. However, that is not the case. I can see that it has been returned to the garage on multiple occasions and repairs have been carried out on at least two of those visits.

Miss S asked to reject the car within six months and the onus is on the garage and VWFS to demonstrate it is of satisfactory quality. I do not consider it has done so. The garage is entitled to one attempt at a repair and I consider it has had several opportunities to rectify the problems and this had not resulted in the car working as it should.

I believe the faults continue to show up and it seems there is a significant fault or series of faults with the infotainment and electronic systems. I believe the model has had some issues with these systems and several of the problems Miss S encountered in the earlier months of use have persisted. I do not consider this to be fair or reasonable. She should have trouble free use of the new car.

I do not consider it sufficient for the garage to rely on its inability to identify the faults when the evidence presented by Miss S shows there are ongoing intermittent faults. As I have said the garage is entitled to one attempt at repair and if that fails it is open to Miss S to reject the car and I think this is reasonable.”

VFS said its only comment was that any faults needed to be confirmed by a Volkswagen dealership in a workshop. This was to ensure the vehicle is being operated correctly in a controlled environment. I notified VFS that my final decision as things stood was rejection and offered it the opportunity to comment further, but it has not done so. Miss S has sought and early resolution of the matter.

## **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.

The responses from both parties have not given me reason to alter my provisional decision. I can see no reason why the matter should be prolonged by an examination by a dealer. It and VFS have had the opportunity to resolve the issue and I consider that rejection is now the best resolution.

## **Putting things right**

Miss S should be allowed to reject the car.

## **My final decision**

My final decision is that this complaint should be upheld and I direct Volkswagen Financial Services (UK) Limited trading as Volkswagen Financial Services to:

- End the agreement with nothing further to pay.
- Arrange for the collection of the car.
- Refund the deposit paid by Miss S and 10% of the monthly payments she has made to date.
- It should pay annual simple interest at 8% on those refunded payments from the date paid until repaid.
- Any adverse entry made on her credit file (if any) in relation to this finance agreement should be removed.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 2 February 2023.

Ivor Graham  
**Ombudsman**