

The complaint

Mr H complains that a car acquired with finance from Santander Consumer (UK) Plc trading as Volvo Car Financial Services ("VCFS") wasn't of satisfactory quality.

What happened

In January 2021 Mr H was supplied with a car and entered into a hire agreement with VCFS. At the point of supply the car was brand new.

Mr H experienced some issues with the car. Within the first month he had problems with the sat nav system because it showed another country, and he was unable to use it. In February 2021 the car wouldn't start as the battery was flat. Mr H took the car back to the dealership who checked the battery condition and resolved the sat nav issue.

In June 2021 Mr H was unable to open the doors to the car because the battery was flat again. Mr H returned the car to the dealership and the control unit was replaced.

Prior to the first service of the car in December 2021, Mr H reported that the engine had become noisy. The dealership said it would update the system to resolve this, but the issue was only resolved temporarily and had returned by September 2022, together with a new knocking noise from under the dashboard.

Mr H returned the car to the dealership in September 2022. The dealership identified a rattling and whirring noise and replaced the hub kit and electric motor.

In December 2022 Mr H took the car in for its second service. There was an error by the dealership who thought the vehicle was due for a third service and MOT which led to Mr H being advised that the car wasn't roadworthy and would require £1600 in repairs.

The car continued to have a knocking noise. Mr H returned the car to the dealership in July 2023 and repairs were carried out including a second replacement of the electric motor.

Mr H complained to VCFS. He said he felt that he'd been sold a faulty vehicle due to the number of issues which had occurred. He also said he hadn't been given complete information about the options at the end of the agreement.

VCFS didn't uphold the complaint. It said that if Mr H felt that he'd been sold a faulty car by the dealership, he should take it up with them. It said it wasn't responsible for the comments made by the dealership regarding the type of agreement.

Mr H remained unhappy and brought his complaint to this service.

Our investigator upheld the complaint. She said that based on the evidence she'd seen, she didn't think the car was of satisfactory quality when supplied. The investigator said that Mr H had accepted repairs and that the issues with the car were now resolved, but that Mr H had been without the use of the car at various times whilst it was with the dealership for repairs, and that she thought it was fair to ask VCFS to refund pro rata the rental costs for the dates that Mr H was without use of a vehicle. The investigator also said that VCFS should pay

compensation of £200 to Mr H to reflect the distress and inconvenience that he'd suffered as a result of being supplied with a car which wasn't of satisfactory quality.

In relation to the information provided to Mr H about the agreement, the investigator said that this was given by the dealership, who was a separate entity to VCFS, and that because the agreement was a hire agreement, VCFS couldn't be held responsible for any wrong information the dealership had provided.

In relation to the early MOT and service issues, the investigator said that VCFS hadn't had any involvement in this and couldn't be held responsible for the actions of the dealership.

Mr H said he was concerned that the car had a three-year warranty but that the hire agreement was for four years. He said that given the number of issues he'd experienced with the car, he was concerned about future faults after the warranty ends and asked whether as part of the resolution it would be possible to extend the warranty or cancel the agreement one year early with no extra charges.

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 Consumer Rights Act 2015 is relevant to this complaint. This says that goods must be of satisfactory quality when supplied. Cars are of satisfactory quality if they are of a standard that a reasonable person would regard as acceptable, taking into account factors such as the age and mileage of the car and the price paid. The legislation says that the quality of the car includes its general state and condition, as well as things like fitness for purpose, appearance and finish, freedom from minor defects, safety and durability.

The car supplied to Mr H was brand new, so I'd expect it to be of a very high quality and to remain fault free for a reasonable period of time.

Under the Consumer Rights Act 2015, where a fault occurs with a car within the first six months of the point of supply, it's assumed that the fault was present or developing at the point of supply and it's generally up to the business to put things right. After six months the burden of proof is reversed and it's up to the consumer to show that the fault would've been present or developing at the point of supply.

I've reviewed the available evidence about the issues which Mr H experienced with the car. Based on what I've seen, I'm satisfied that the car had a fault. I say this because Mr H has provided service notes from the dealership which show that the car was returned to the garage several times or repairs between February 2021 and July 2023.

I've gone on to consider whether the car was of satisfactory quality when it was supplied. I've already explained that with a brand new car, there's an expectation that the car will remain fault free for a reasonable period of time. In this case, the car suffered sat nav and battery faults within the first six months. I can also see that there was a possible fault with the engine, which led to the electric motor being replaced twice, once in September 2022 and again in July 2023. This calls into question whether that component part was sufficiently durable, which is an aspect of satisfactory quality.

Taking into consideration that this was a brand new car with very low mileage, I don't think a reasonable person would have expected to have to deal with so many faults during the first year or two of getting the car. On balance, I don't think the car was of satisfactory quality when it was supplied.

Mr H has said that he wants to end the agreement because of the number of issues he's experienced with the car. Based on what I've seen, Mr H has accepted repairs and all the faults have been rectified. So I don't think rejection is the correct resolution here. If the car develops further faults, it may be possible to seek a rejection, but Mr H would need to raise a complaint with VCFS first.

I can see that Mr H has been without the use of the car for extended periods of time whilst it was in for repair at the dealership. Based on what I've seen, the car was in for repairs in February 2021, June 2021, December 2021, September 2022, October 2022 and July 2023. The only time Mr H was provided with a courtesy car was December 2021. I think it's fair to ask VCFS to refund Mr H's rental payments pro rata for the periods he was without the use of the car. VCFS should confirm with Mr H and the dealership the exact dates that the car was in for repairs and unavailable for Mr H to use and calculate the pro rata refund of rental costs accordingly.

It's clear that Mr H has been caused some distress and inconvenience as a result of being supplied with a car which wasn't of satisfactory quality. As well as being without the use of the car for the times it was being repaired. Mr H has had the worry of not knowing whether the car would be reliable on any given day, which has caused him worry as his job is with the emergency services. In the circumstances I think it's fair to ask VCFS to pay compensation for the distress and inconvenience caused.

In relation to the other issues raised by Mr H – being the information about the agreement and the service/MOT issues, I agree with the investigator that these aren't things which VCFS can be held responsible for. These issues should be raised with the dealership.

I've taken account of Mr H's concerns that the warranty on the car is only for three years whereas the agreement is for four years. I understand why Mr H has these concerns but at the moment the car isn't faulty and there's no grounds to ask VCFS to extend the warranty or shorten the agreement. If Mr H wishes to end the agreement early there are provisions in the agreement which will allow him to do this.

Putting things right

To put things right, Santander Consumer (UK) Plc trading as Volvo Car Financial Services must:

Refund rentals pro rata for the period of time that Mr H was without the use of the car. VCFS must liaise with Mr H and the dealership to confirm the exact dates the car was in for repairs and calculate the refund due

Pay 8% simple interest on all refunded amounts from the date of payment to the date of settlement

Pay compensation of £200 for distress and inconvenience

My final decision

My final decision is that I uphold the complaint. Santander Consumer (UK) Plc trading as Volvo Car Financial must take the steps I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 11 June 2024.

Emma Davy
Ombudsman