

The complaint

Mr W complains about a car he acquired using a conditional sale agreement with Stellantis Financial Services UK Limited trading as Vauxhall Finance (“Vauxhall Finance”). He’s said there have been several issues and faults with the car and wishes to reject it and end his agreement.

What happened

In July 2022, Mr W entered into a four-year conditional sale agreement with Vauxhall Finance for a new car. Mr W paid a cash deposit of £1,000 and part-exchanged his existing car for £12,500. He was then required to make 48 payments of £279.87. Mr W says he has experienced issues with the tyre pressure warning light, engine management light, the radio changing channels and emitting a screeching sound, and the climate control losing his preferred settings.

Mr W complained to Vauxhall Finance. They said, in summary, that the dealership from where Mr W picked up the car should be allowed an opportunity to investigate and rectify any issues. Vauxhall Finance also mentioned that a software update was required but they weren’t responsible for this or the delivery of any required replacement parts, and the dealership were responsible for any subsequent repairs. And they said they wouldn’t be able to overturn the dealership’s decision not to accept the rejection of the car.

Mr W remained unhappy with Vauxhall Finance’s response and referred his complaint to us. One of our investigators set out why they considered the complaint should be upheld and amongst other things, why Vauxhall Finance should now take the car back and end Mr W’s agreement. Vauxhall Finance didn’t accept the investigator’s findings and as the complaint couldn’t be resolved, it’s been passed to me to decide.

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’m aware that I’ve summarised this complaint in far less detail than the parties and I’ve done so using my own words. I’m not going to respond to every single point made by all the parties involved. I don’t intend any discourtesy by this. Instead, I’ve focussed on what I think are the key issues. Our rules allow me to do this and reflects the informal nature of our service as a free alternative to the courts. If there’s something I’ve not mentioned, it isn’t because I’ve ignored it. I don’t though need to comment on every specific argument to reach what I think is a fair and reasonable outcome.

Where the evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my decision on the balance of probabilities – that is, what I consider most likely happened in light of the available evidence and the wider circumstances.

I would firstly like to refer to Vauxhall Finance’s response to Mr W’s complaint and in particular where they state: ‘...*whilst it is unfortunate and we empathise with the timescales*

taken for the software update to your vehicle to be completed, this is the responsibility of the manufacturer...and the dealership who are responsible for the subsequent repairs'. And: '...as a finance house we do not regulate the dealerships and would be unable to overturn any decision made in respect of accepting or declining a request to reject a vehicle. Before a rejection request can be accepted, the support of the supplying dealership would be required'.

I would remind Vauxhall Finance that it is the owner and supplier of the car, which Mr W is allowed to drive under the terms of the conditional sale agreement. As supplier of the car to Mr W, Vauxhall Finance is responsible for the quality of the car and in accordance with the Consumer Rights Act 2015 ("CRA") should supply a car to him that is of satisfactory quality.

As Mr W's complaint relates to a regulated conditional sale agreement with Vauxhall Finance, our service is able to consider complaints about this agreement and the goods supplied through it. As I've already mentioned, Vauxhall Finance is required to supply a car that is of satisfactory quality and the key issue I must consider is whether the car supplied to Mr W was of satisfactory quality. And if it wasn't, what then if anything is required to put things right.

Satisfactory quality is defined within the CRA and in summary, is what a reasonable person would expect when considering the quality of the goods. In cases such as this with a car, the age, cash price, and mileage of the car at the time it was supplied to Mr W and the age and mileage at the time of the faults, along with the significance of the faults, are all in my view key considerations. Here, Mr W was supplied with a brand-new car with a cash price of around £25,000. Because of this, I think a reasonable person would have had high expectations around the quality of the car.

I can fully appreciate Mr W's disappointment as he's had a number of issues with the car and in my view this isn't something that one would expect from a brand-new car. Amongst other things, the car's climate control settings continually switch from Mr W's preferred settings, the radio has been very erratic, he's reported that the instrument panel blacks out, and on occasion alarms have sounded while he's been driving the car. It would appear that many of these are intermittent issues. However, all of them have occurred while the car has been relatively new and with low mileage. And collectively this is reasonable evidence in my view that the car supplied to Mr W wasn't of satisfactory quality. These aren't issues I would expect anyone to experience with a new car, or with this current age and mileage.

Putting things right

The CRA sets out a number of remedies where goods were found to not be of satisfactory quality. Consumers do have the right to seek rejection of the goods if the supplier has already had one opportunity to repair the goods.

I appreciate there seem to have been some problems identifying specific faults with the car, but it is clear the car has experienced a number of issues. Repairs have also been attempted, on more than one occasion, and I can fully appreciate why Mr W has lost faith in the car. He has experienced several faults with the car, one of which resulted in the car sounding audible alarms on the motorway, which would have been concerning. Having had regard to what remedies are set out in the CRA and what I consider to be fair and reasonable in the circumstances of this complaint, I'm satisfied that Vauxhall Finance should now take back the car and end the conditional sale agreement with Mr W. It would be unreasonable in my view to expect him to continue with the agreement until the end of the original term considering the number of problems he's experienced. Vauxhall Finance should therefore now arrange to take back the car from Mr W and end the conditional sale agreement with nothing further owed. For the avoidance of doubt, Mr W shouldn't be held

responsible for any termination or recovery costs associated with ending the agreement or taking back the vehicle. And Vauxhall Finance should ensure that when cancelling the agreement, no adverse information is recorded on Mr W's credit file.

I also think it reasonable that Mr W is refunded the £13,500 he contributed towards the transaction (this being the £1,000 cash deposit and the £12,500 part-exchange value of his previous car), with interest.

Mr W has had use of the car, so I think it's reasonable for him to contribute towards the cost of the use he's had. But I also accept Mr W hasn't had the carefree motoring he was I'm sure expecting when acquiring a new car. Considering all the circumstances of this complaint I find it reasonable for Vauxhall Finance to refund 15% of Mr W's monthly repayments to compensate for the impaired use he has had of the car, with interest.

There would have been some inconvenience and distress to Mr W as a result of the issues he experienced with the car and in taking it in to the dealership on more than one occasion. Considering this, it would be reasonable for Vauxhall Finance to pay Mr W £150 in addition to what I have set out above.

My final decision

I uphold this complaint and direct Stellantis Financial Services UK Limited trading as Vauxhall Finance to do the following:

- Take back the car and end the conditional sale agreement with nothing further owed.
- Ensure any costs associated with taking back the car aren't passed on to Mr W.
- Refund the £13,500 deposit/part-exchange amount Mr W paid, applying interest at 8% simple per year from the date of payment to the date of settlement.
- Refund Mr W with 15% of each monthly payment he's made toward the conditional sale agreement, applying interest at 8% simple per year from the date of each payment to the date of settlement.
- Pay Mr W £150 for the distress and inconvenience he's been caused.
- Ensure no adverse information is recorded on Mr W's credit file once the agreement has ended.

If Stellantis Financial Services UK Limited trading as Vauxhall Finance considers it's required by HM Revenue & Customs to deduct income tax from the interest element of my award, they should tell Mr W how much tax they've taken off. They should also give Mr W a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs, if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 20 September 2024.

Daniel Picken
Ombudsman