

## **The complaint**

Mr C complains about the quality of a campervan he has been financing through an agreement with Volkswagen Financial Services (UK) Limited, trading as Volkswagen Commercial Vehicle Financial Services ("VWFS").

## **What happened**

In April 2022 Mr C took receipt of a new campervan. He financed the deal through a hire purchase agreement with VWFS.

In May 2022 Mr C noticed that the roof was leaking. Several attempts to repair the leak have failed.

VWFS have offered to attempt a further repair and pay Mr C £1,000 to settle the case. They're also prepared to accept rejection of the vehicle.

When Mr C referred his complaint to this Service our investigator thought rejection was the most appropriate resolution.

Mr C didn't agree. He explained that sourcing another vehicle would be much more expensive and he wanted VWFS to agree to replace the vehicle instead of rejecting it. As that couldn't be agreed, Mr C's complaint has been referred to me, an ombudsman, for a final decision.

## **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 know it will disappoint Mr C, but I agree with the investigator's opinion. I'll explain why.

Where the information I've got is incomplete, unclear, or contradictory, as some of it is here, I have to base my decision on the balance of probabilities.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point, it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

Mr C acquired his campervan under a hire purchase agreement. This is a regulated consumer credit agreement and as a result our service is able to look into complaints about it.

The Consumer Rights Act 2015 (CRA) is the relevant legislation. It says that the goods should have been of satisfactory quality when supplied. If they weren't then VWFS, who are also the supplier of the goods, are responsible. The relevant law also says the quality of goods is satisfactory if they 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.

There's no dispute here that this campervan has been of unsatisfactory quality. The relevant legislation allows a business one opportunity to repair the vehicle in those circumstances. A replacement may also be considered at that point, but Section 23 (3) of the CRA explains:

- (3) The consumer cannot require the trader to repair or replace the goods if that remedy (the repair or the replacement) —
  - (a) is impossible, or
  - (b) is disproportionate compared to the other of those remedies.

Section 23 (4) of the CRA goes on to explain that:

- (4) Either of those remedies is disproportionate compared to the other if it imposes costs on the trader which, compared to those imposed by the other, are unreasonable,

I think the costs of replacement would have been a disproportionate remedy, and in those circumstances, and because repair was what Mr C was looking for at the time, I don't think the business were wrong to attempt to repair the vehicle.

When a repair fails the CRA allows the consumer to reject the goods but it does not give the consumer a right to have the goods replaced. So, I don't think VWFS have been unreasonable to refuse to do so here. I think the most reasonable solution would, therefore, be to allow Mr C to reject the vehicle and end the finance agreement.

I'm not persuaded that VWFS should refund any of the finance instalments paid as Mr C appears to have had fair use of the vehicle and has had the use of courtesy vehicles when his has been in for repair.

However, Mr C hasn't been able to use some of those vehicles as campervans and that will have inconvenienced him. He's also been inconvenienced in other ways, he's had, for instance, to take the campervan to be repaired on several occasions and has had to register the courtesy vehicles for toll access. He's also had to search for alternative solutions to waterproof the roof. In those circumstances, I think VWFS should pay him £250 to compensate him for the distress and inconvenience caused.

### **My final decision**

For the reasons I've given above I uphold this complaint and tell Volkswagen Financial Services (UK) Limited to:

- Allow Mr C to reject the campervan and end the finance agreement.
- Collect the campervan at no cost to Mr C.
- Refund any deposit that Mr C has paid and add 8% simple interest\* per year from the date of payment to the date of settlement.
- Pay Mr C £250 to compensate him for the distress and inconvenience and loss of enjoyment he's experienced.
- Remove any adverse reports they may have made to Mr C's credit file in relation to this issue.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 26 August 2024.

Phillip McMahon  
**Ombudsman**