

## **The complaint**

Mr R complains that a car he acquired via a hire purchase agreement with Volkswagen Financial Services (UK) Limited trading as Audi Financial Services ("AFS") wasn't of satisfactory quality. He wishes to reject the car and cancel the agreement.

## **What happened**

In September 2023 Mr R entered into a three-year hire purchase agreement with AFS for a new car. The annual mileage limit was set at 10,000 and the monthly payments at £600.54.

Mr R reported issues with the car in October 2023 to the supplying dealer in respect of warnings appearing on the dash about the headlight beam and driver assist and also experiencing squeaking brakes and steering. The car was taken in for an inspection and the car's SOS electronic control unit was replaced but no other faults could be found.

Mr R says that issues with the car continued, and the car went back for further investigations in January 2024. Mr R complained that the car's brakes continued to squeal in certain conditions as did the steering. He said he also found the car drifted. The car was inspected but no action taken as the faults couldn't be replicated.

In March 2024 Mr R raised further problems with the car including the multimedia interface going blank for one day and repeated issues with it drifting and also with the full-beam and driver assist features. The car was returned to the supplying dealer and the tyre pressures were re-set and the wheels re-aligned. The garage said that despite testing, no issues could be replicated with the brakes, with the steering squealing or with the car drifting. They advised Mr R that the brakes could sometimes make a noise with normal function in certain conditions.

The garage also said that the issue with the driver assist was due to the camera view being blocked because of the weather and this wasn't a fault. They also said that the issue with the headlights had been due to their setting which they altered. No fault with the multi-media interface was found. The car was returned to Mr R.

Mr R says the problems with the car continued and he complained to AFS. AFS partially upheld his complaint in that it acknowledged a repair had been required to the SOS electronic control unit but said no other faults with the car had been found.

Mr R was unhappy at AFS's response and complained to this service. He said he wanted to reject the car because it was faulty. He said the issues with the car were intermittent, but he didn't think the supplying dealer had tested the car sufficiently. He also said the issues with the headlight beam assist and driver assist were ongoing as was the car drifting.

During this this service's investigation into Mr R's complaint, he arranged for the car to be independently inspected at another garage that specialised and was approved by the manufacturer. Diagnostics were run on the car's electrical components, there was no inspection of its bodywork. The diagnostic report showed there were fault codes in respect of the car's SOS electronic control unit and with its rear axle steering which was later confirmed

could cause the car to drift if not working properly.

Our investigator recommended that Mr R's complaint should be upheld. She said this had been a new car and would reasonably be expected to be fault free and, although the supplying dealer had been unable to replicate the issues described by Mr R, this diagnostic report had found faults. She said she thought it was likely there was something wrong with the car even though not all of the issues complained of by Mr R had been found. There had been no faults found with the brakes nor any fault with the multi-media interface. Our investigator said that as this was a new car, the faults that had been found meant it wasn't as durable as a reasonable person would have reasonably expected. She said Mr R was entitled to return the car and for the agreement to be cancelled.

Our investigator said that it would be fair for Mr R to be reimbursed his deposit together with 15% of his monthly payments made from March 2024 because of experiencing the car drifting. She said Mr R's enjoyment of the car would have been spoiled due to the faults. She said that it would be reasonable for the remainder of the monthly payments to be retained by AFS as Mr R had made use of the car and he should cover this. She also said Mr R should be reimbursed the £36 he had to spend having the diagnostic tests run on the car.

Mr R agreed with our investigator's view, but AFS disagreed. It said that the diagnostics report didn't show the cause of the faults and that the car should now be fully inspected and a report prepared as to its condition.

Mr R said he thought he had provided sufficient evidence that faults were present and asked that his complaint was passed to an ombudsman.

### **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.

As the hire purchase agreement entered into by Mr R is a regulated consumer credit agreement this service is able to consider complaints relating to it. AFS is also the supplier of the goods under this type of agreement and is responsible for a complaint about their quality.

Under the Consumer Rights Act 2015 there is an implied term that when goods are supplied 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.

The relevant law also says that 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.

Here the car was brand new and would reasonably be expected to be fault-free. It would also be reasonable to expect that the car wouldn't require any maintenance or repairs for some time after Mr R had acquired it.

Mr R says that he raised issues with the car within the first 30 days of the agreement and that it had to have a repair to the SOS electronic control unit. He asks about his short-term right to reject the car and receive a full refund. However, for the right to short term reject goods for being faulty, then Mr R would have needed to decline any repairs and been very

clear that he wanted to reject the car. I haven't seen any evidence that Mr R did make it known that he wanted to return the car when he first raised issues with it and the car was given a repair to which he appears to have agreed. So, I can't reasonably say Mr R was entitled to reject the car and receive a full refund now because there had been a fault found in the first 30 days.

I've seen that Mr R has raised a number of issues he has experienced with the car and that the investigations by the dealership weren't able to replicate them. It's the diagnostics report that Mr R arranged himself which found faults with the SOS electronic unit and with the rear axle steering. I've also seen that these diagnostics haven't picked up all the problems raised by Mr R such as the brakes and multi-media interface. AFS says that this diagnostic report doesn't go far enough to be able to say that the car wasn't of satisfactory quality and a further, more thorough, inspection should be undertaken. Mr R disagrees and says this report with his other evidence is enough.

I can appreciate why Mr R is reluctant to have a decision on his complaint delayed for further tests to be undertaken. He has been complaining about the car since a short time after he acquired it. The car has also been inspected in the past and, due possibly to the intermittent nature of the issues, no faults have been found. On balance, I agree with Mr R as to the benefit and fairness of the car being investigated again. Mr R's diagnostic report has been prepared by a manufacturer approved garage, it has identified some issues with the car and confirmed that the car could be suffering from drift because of the issue with the rear axle steering that was identified. I think looking at the evidence, that it's more likely than not, the car has an issue with drift and that the repair to the SOS electronic unit was unsuccessful as further issues relating to that component have arisen. I therefore think I have sufficient information to be able to reasonably say the car isn't fault-free.

Looking at the car's age and mileage, and that investigations have been conducted before, I think it's fair for Mr R to now reject the car. I don't think it's as durable as would reasonably be expected and that it wasn't of satisfactory quality at its point of supply to Mr R.

As I don't think the car is of satisfactory quality then I'm upholding Mr R's complaint. The car is to be returned at no cost to Mr R and the agreement ended with nothing further to pay. I've seen that Mr R was able to use the car though I appreciate his use would have been spoiled by the issues he has experienced. I agree with our investigator that it's fair 15% of Mr R's monthly payments are reimbursed from March 2024 to reflect the fault with the car drifting. I also agree that the cost of the diagnostic test which Mr R arranged and had paid for is returned to him.

### **Putting things right**

For the reasons set out above I'm asking AFS to do the following:

- Collect the car at no cost to Mr R.
- End the agreement with nothing further to pay.
- Refund Mr R's deposit/part exchange contribution of £21,500.
- Reimburse Mr R 15% of each of the monthly payments he has made to reflect the impaired use he had of the car because of the inherent quality issues.
- Reimburse Mr R £36 for the diagnostic report he paid for and arranged.
- Pay 8% simple yearly interest on all refunded amounts from the date of payment until

the date of settlement.

- Remove any adverse information from Mr R's credit file in relation to this agreement.

### **My final decision**

As set out above I'm upholding Mr R's complaint. I'm asking Volkswagen Financial Services (UK) Limited trading as Audi Financial Services to do the following:

- Collect the car at no cost to Mr R.
- End the agreement with nothing further to pay.
- Refund Mr R's deposit/part exchange contribution of £21,500.
- Reimburse Mr R 15% of each of the monthly payments he has made to reflect the impaired use he had of the car because of the inherent quality issues.
- Reimburse Mr R £36 for the diagnostic report he paid for and arranged.
- Pay 8% simple yearly interest on all refunded amounts from the date of payment until the date of settlement.
- Remove any adverse information from Mr R's credit file in relation to this agreement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 12 February 2025.

Jocelyn Griffith  
**Ombudsman**