

## **The complaint**

Mrs S complains that a car she financed through an agreement with Stellantis Financial Services UK Limited, trading as Vauxhall Finance, was mis-sold to her, that the business failed to explain her termination options adequately and that the vehicle supplied wasn't of satisfactory quality.

Mrs S has been represented by her son in this complaint but for ease and because Mrs S is the only person named on the finance agreement, I will refer only to her in this decision.

## **What happened**

In March 2022 Mrs S entered into a conditional sale agreement with Vauxhall Finance to fund a new car.

Mrs S complained to Vauxhall Finance that:

- The car had been mis-sold to her as the range was severely impacted by winter conditions and wasn't, therefore, as advertised.
- The battery had failed to charge.
- That she hadn't been presented with adequate options to facilitate the return of the car and had had no choice but to Voluntarily Surrender it.

As Vauxhall Finance didn't uphold her complaint she referred it to this service. Our investigator didn't think there was cause to uphold it either. He didn't think he'd been provided with sufficient evidence the battery was faulty or that the range achieved wasn't simply impacted by driving style and conditions. He noted that Vauxhall Finance had also explained that it would be possible to Voluntarily Terminate the agreement but that in order to do so Mrs S would need to pay 50% of what was owed on the agreement.

Mrs S was disappointed with the investigator's view, and she asked for a final decision by 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.

I know it will disappoint Mrs S and I was very sorry to hear about the difficulties her and her son were having, but I'm afraid I'm not upholding this complaint. 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.

Mrs S acquired her car under a regulated consumer credit agreement and as a result our service is able to look into complaints about it.

Section 56 of the Consumer Credit Act (1974) explains that finance providers are liable for what they say, and for what is said by a supplier before the consumer takes out the credit agreement.

Misrepresentation is, in very broad terms, a statement of law or of fact, made by one party to a contract to the other, which is untrue, and which materially influenced the other party to enter into the contract.

So, if Mrs S was provided with false facts about the battery's range when she took out the finance agreement that funded the car, and if I thought that influenced her decision to proceed, I may think the deal had been misrepresented to her.

I'm not persuaded I've been given sufficient evidence that was the case. The car hasn't been inspected by an independent expert who could confirm that the advertised range wasn't what was provided. And given the time Mrs S had the car before she complained, I think the onus was on her to provide that information. While Mrs S has explained that she told the dealership about the problem I think it was for her to insist they look at the car or to refer it to another independent garage for an opinion. I can't see she did that and, on balance, I don't think there is sufficient evidence the car was misrepresented to her.

Similarly, as Mrs S had the car for some time before she complained of problems with the battery not charging properly, I think it was for her to provide evidence that was the case. I've not seen sufficient evidence to support her assertion and as the car has now been sold on, I don't think it's feasible to obtain that evidence. I don't, therefore, think I can fairly conclude that the car was of unsatisfactory quality.

Vauxhall Finance explained that they did tell Mrs S how Voluntary Termination worked when she called them in June 2023. Mrs S's representative has explained that as they didn't have the money to pay the 50% shortfall it wasn't an option they could take up. In those circumstances Voluntary Surrender would seem the most viable option. There was a shortfall after the car had been surrendered and sold and the proceeds had been attributed to the balance on the account. Mrs S has explained that she was experiencing financial difficulties and struggling to make that payment and, in those circumstances, I would expect Vauxhall Finance to show some forbearance and be sensitive to Mrs S's situation. I think they have been as Mrs S has explained that they have now accepted her offer to pay £100 a month towards the balance. Vauxhall Finance have an obligation to report a consumer's credit performance accurately so the arrangement will need to be reported to Mrs S's credit file.

### **My final decision**

For the reasons I've given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 2 April 2025.

Phillip McMahon

**Ombudsman**