

The complaint

Miss R complains about the quality of a new car that was supplied through a Conditional Sale Agreement with Stellantis Financial Services UK Limited trading as Vauxhall Finance (Vauxhall). Miss R is also not happy with the quotation she received to terminate her agreement.

What happened

In March 2022, Miss R acquired a new car using a Conditional Sale Agreement from Vauxhall. The cash price of the car is listed as £26,546.76 (excluding any added warranty). The deposit is listed as £2,938.27 so the total amount financed on the agreement was £23,907.49.

Miss R was due to make 48 repayments of £332.08 followed by a final payment of £11,460.

Miss R said she was told by Vauxhall in August 2023, that by March 2024 she'd be halfway through her finance agreement and could then hand the car back at no further cost.

However, in January 2024, when she enquired about doing so, Miss R said she received a termination settlement quotation of £5,421.75. Miss R said she was told the agreement was 'value specific' rather than time specific. Miss R says she's also been experiencing issues with the car and has had to bring it to the manufacturer garage on around six occasions.

In January 2024 Vauxhall issued their final response to Miss R's complaint. In it, Vauxhall said they weren't made aware of any issues with the car and confirmed the termination figure quoted to Miss R was correct and referred her to the terms of the contract.

Unhappy with Vauxhall's decision Miss R brought her complaint to our service for investigation. In an email dated 9 April 2024 Miss R told us that her car was in the garage since 5 March 2024 for issues related to the touch screen, heated seats and key fob.

In an email dated 24 April 2024 Miss R confirmed the voluntary termination of her agreement had gone ahead and that her car was collected that morning.

Having reviewed all the information on file one of our investigators recommended that Miss R's complaint should be upheld. The investigator concluded that the car wasn't of satisfactory quality when it was supplied and so recommended that Vauxhall refund to Miss R some of her monthly repayments, along with her deposit and some compensation for the inconvenience caused.

Miss R accepted the investigator's recommendations. Vauxhall didn't respond to the investigator's assessment, so it's taken as they haven't accepted the investigator's recommendations, and so the case has been referred to me 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.

In considering what is fair and reasonable, I've thought about all the evidence and information provided afresh and the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and (where appropriate) what I consider to have been good industry practice at the relevant time.

Miss R complains about a Conditional Sale Agreement. Entering into consumer credit contracts like this is a regulated activity, so I'm satisfied we can consider Miss R's complaint about Vauxhall. Vauxhall is also the supplier of the goods under this agreement, and is responsible for a complaint about their quality.

The Consumer Rights Act 2015 (CRA) is relevant in this case. It says that under a contract to supply goods, there is an implied term that "*the quality of the goods is satisfactory, fit for purpose and as described*". To be considered as satisfactory, the CRA says the goods need to meet the standard that a reasonable person would consider satisfactory, considering any description of the goods, the price and all the other relevant circumstances. The CRA also explains the durability of goods is part of satisfactory quality.

So, it seems likely that in a case involving a car, the other relevant circumstances a court would consider might include things like the age and mileage at the time of sale and the vehicle's history.

Here, the car was acquired new, with a cash price of around £27,000. So, I think it's fair to say that a reasonable person would expect the level of quality to be higher than a second hand, more road-worn car and that it could be used – free from defects – for a considerable period of time

From the information provided I'm satisfied there were issues with the car. This is apparent from the following invoices:

- Invoice dated 7 June 2022 for issues entering the car with the key fob
- Invoice dated 24 August 2022 for issues with central locking, satnav, radio configuration
- Invoice dated 4 January 2023 recall relating to the multifunction control unit
- Invoice dated 3 November 2023 for issues with auto windscreen wipers, satnav issues, wing mirror warning light
- Invoice dated 17 April 2024 screen blacking out, issue with auto wipers. Key fob not working

Having considered the car had some faults, it seems to me there are two key issues for me to consider in relation to this complaint:

1. Was the car of satisfactory quality when it was supplied to Miss R?
2. Were Vauxhall acting fairly by asking Miss R to pay the amount quoted to settle her agreement?

In her complaint form, Miss R said the car had been back to the dealership about six times since she's had it in her possession. Miss R provided us with copies of invoices, (as detailed above) for repairs carried out on the car. The invoices demonstrate that Miss R started having problems with different aspects of the car from June 2022 which was about three

months after she'd acquired it. However, later invoices show some issues which have resurfaced, for example with gaining entry to the car, the satellite navigation system and the issue with the wipers.

In consideration that this was a brand-new car, I don't think it's reasonable that these issues should have occurred so soon after supply. In addition, Miss R during her ownership of the car, travelled around 21,000 miles in total, which for two years I think is fair and reasonable usage and not indicative that anything is expected to go wrong.

There are certain times, set out in the CRA, when a consumer is entitled to reject goods, in this case the car, if it doesn't conform to the contract – a short term right to reject within 30 days of taking delivery, or a final right to reject if a repair or replacement hasn't resulted in the car subsequently conforming – that is, it then being of satisfactory quality.

In this case I'm satisfied from the invoices provided that the repairs carried out haven't been successful. And so, under the CRA Miss R would be able to reject the car. However, Miss R advised in April 2024 that she voluntarily terminated the agreement.

In her complaint form Miss R gave the reasons for terminating the contract as the affordability but also complained about the quality of the car. So even though Miss R terminated the agreement I'm persuaded that had Miss R been given the opportunity, it's likely she would have rejected the car instead.

In the section of the contract, '*termination your rights*' it says:

'You have a right to end this agreement. To do so, you should write to the person you make your payments to. They will then be entitled to the return of the goods and to half the total amount payable under this agreement, that is £15,004.42. If you have already paid at least this amount plus any overdue instalments and have taken reasonable care of the goods, you will not have to pay any more.'

Miss R told us that in January 2024 she received a termination settlement quotation of £5,421.75 which was confirmed by Vauxhall in their final response issue the same month. The terms say that at least half of the total amount payable must be paid. Up to January 2024 I'm satisfied that the repayments Miss R had made to that point, including the deposit she paid wouldn't have come to the amount of £15,004.42. I think it's fair to say Miss R believed it was once she reached halfway through the term as opposed to once she'd repaid at least half the amount due under the agreement.

I'm satisfied the terms were presented in a way that was reasonably clear enough for Miss R to understand, and so in relation to the settlement quotation I'm satisfied Vauxhall quoted the right amount.

However, as I've concluded that the car wasn't of satisfactory quality when it was supplied to Miss R, and that she had the right to reject it prior to requesting a voluntary termination, I'm of the opinion that Vauxhall should have allowed Miss R to hand the car back.

In the circumstances, as Miss R has confirmed the car has already been collected, I think the fairest approach here is to put Miss R in the position she would have been, as far as reasonably possible, had she rejected the car instead of voluntarily terminating the agreement.

In October 2024, I asked the investigator to write to Vauxhall to confirm if the voluntary termination charges were still applicable, to let them know of my intention to instruct them to

remove any voluntary termination charges, and to invite them to make any additional comments in relation to the situation.

Vauxhall responded to confirm the total remaining liability for Miss R to pay was £5,463.66. which they said included damage charges of £359. Vauxhall didn't make any further submissions or comments relating to the complaint or my intention to ask them to remove charges; so, I've gone on to reach a conclusion on what I think is the fairest approach in the circumstances of this complaint.

I'm persuaded that had Miss R been given the opportunity, it's likely she would have decided to reject the car in place of having to pay an amount to the halfway point so she could end the agreement. Miss R told us she was expected to pay £5,421.75 to Vauxhall. Vauxhall confirmed a slightly higher amount to the investigator in October 2024. However, for the reasons given, I don't think it's reasonable that Miss R should have to pay any voluntary termination charges. So, I'll be instructing Vauxhall to remove any outstanding balance relating to the voluntary termination of the agreement.

For clarity, my decision to instruct Vauxhall to remove the termination charges does not extend to any costs Vauxhall may have applied that relate to damage charges.

I'll be instructing Vauxhall to refund to Miss R her deposit contribution of £2,938.27 and refund 10% of the payments Miss R has made on the agreement in August 2022, January 2023, November 2023 and April 2024 to reflect the impaired usage she would have experienced, as these were the dates Miss R reported having issues with the car and which are consistent with the invoices provided.

Vauxhall should also pay a refund of payments for the time the car was being repaired if Miss R wasn't provided with a courtesy car. I've seen no evidence of whether a courtesy car was provided by the dealership, however I don't think it's reasonable for Miss R to have to make those repayments if she wasn't kept mobile. Vauxhall should reimburse Miss R for the time the car was in for repair and when she hadn't had use of a courtesy car.

Miss R has told us about some of the the impact this situation has had on her, and I don't doubt the likely frustration from having the issue with a car that was brand new. I'm in agreement with the investigator that £250 in compensation fairly reflects the distress and inconvenience caused.

My final decision

Having thought about everything above along with what is fair and reasonable in the circumstances I uphold this complaint and instruct Stellantis Financial Services UK Limited trading as Vauxhall Finance to:

- remove any outstanding voluntary termination charges relating to Miss R's conditional sale agreement
- refund the deposit Miss R paid (if any part of this deposit is made up of funds paid through a dealer contribution, Stellantis Financial Services UK Limited trading as Vauxhall Finance is entitled to retain that proportion of the deposit)
- pay a 10% refund of payments made by Miss R, as described in my decision, to cover impaired or loss of usage as a result of the issues with it.
- pay a refund of payments in proportion to the time the car was in the garage for repairs and when Miss R was without a courtesy car (if one wasn't provided)
- pay £250 in compensation for the distress and inconvenience caused
- remove any adverse information that may have been recorded with the credit

reference agencies in respect of the agreement.

Stellantis Financial Services UK Limited trading as Vauxhall Finance should pay 8% yearly simple interest on all refunds calculated from the date of payment to the date of settlement.

If Stellantis Financial Services UK Limited trading as Vauxhall Finance considers that it's required by HM Revenue & Customs to withhold income tax from the interest part of my award, it should tell Miss R how much it's taken off. It should also give Miss R a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 3 December 2024.

Benjamin John
Ombudsman