

The complaint

Mr W complains about the quality of a car he acquired under a hire purchase agreement with Volkswagen Financial Services (UK) Limited (VFS).

When I refer to what Mr W has said and what VFS have said, it should also be taken to include things said on their behalf.

What happened

In October 2019, Mr W entered into a hire purchase agreement with VFS to acquire a car first registered in November 2018. At the time of acquisition, the car had travelled around 5,681 miles. The cash price of the car was around £24,980. There was an advance payment of approximately £2,500. The total amount payable was approximately £31,050. First payment was around £349 followed by 47 monthly payments of around £349, and then a final payment of around £11,790.

Mr W said that in September 2023, the timing belt tensioner failed consequently causing engine damage. Mr W said this failure occurred when the car had travelled around 53,888 miles and four years and 11 months from the date of manufacture.

Mr W said the car was well maintained and serviced according to the recommended service schedule at a manufacturer's service centre. Regarding the fault, Mr W said that the independent inspection report identified the cause of failure as not wear and tear. An addendum to the inspection report with additional evidence supports the underlying cause of failure as loosening of the cam socket setting screw, and eventually breaking or falling out, to cause an interaction with the tensioner, and in turn causing the consequential damage to the engine. Mr W said the screw design has been changed from three M8x16 bolts with wide heads to a single M6x12 screw, and as the new screw is comparably smaller and shorter, Mr W believes that it is more likely to fail than the previous bolts. Mr W said that the failure of the car was a direct result of this design or manufacturing fault present at the time of purchase, but the manufacture offered only a 40% goodwill contribution, leaving him responsible for 60% of the repair costs. And he believes that that he should not be responsible for any of the costs, as the fault was due to a potential manufacturing, design, assembly, or service issue identified in the independent report. Alternatively, a substantially higher goodwill contribution from VFS should be made.

In November 2023 VFS wrote to Mr W and said that he reported concerns relating to the car 48 months after its purchase and 60 months after the car was manufactured, and that the car had travelled around 53,000 miles. So, they said, that it is understandable the car may start to develop issues which require repair or replacing. However, they said this does not mean the issue was present at the time of sale, or that the car was not of suitable quality. They also said that the manufacturer states that these repairs should be required at 140,000 miles or five years, whichever comes sooner. So, they concluded that they are unable to uphold Mr W's complaint.

Later again in November 2023 VFS wrote to Mr W again and said that due to the passage of time they would require the proof to show that there was an inherent fault/defect present

in the car at the time of delivery which would render the car of unsatisfactory quality. And as Mr W acquired the car in 2019, three years prior to the date of the correspondence in question, they said no evidence has been provided to ascertain that the issues are a result of an inherent fault from the point of purchase. Furthermore, they said had the car been sold with the mentioned defect, which they said they deny, the defect would have manifested itself sooner.

Mr W remained unhappy, so he referred his complaint to the Financial Ombudsman Service (Financial Ombudsman).

Our investigator considered Mr W's complaint, but the investigator did not think that the car was of unsatisfactory quality when supplied.

Mr W disagreed with the investigator. So, the complaint has 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.

Where evidence is unclear or in dispute, I reach my findings on the balance of probabilities – which is to say, what I consider most likely to have happened based on the evidence available and the surrounding circumstances.

In considering what is fair and reasonable, I need to take into account the relevant rules, guidance, the law and, where appropriate, what would be considered good industry practice at the relevant time. Mr W acquired the car under a hire purchase agreement, which is a regulated consumer credit agreement. Our service can look at these sorts of agreements. VFS is the supplier of goods under this type of agreement and is responsible for dealing with complaints about their quality.

I have summarised this complaint very briefly, in less detail than has been provided, and largely in my own words. No discourtesy is intended by this. If there is something I have not mentioned, I have not ignored it. I have not commented on every individual detail. But I have focussed on those that are central to me reaching, what I think is, the right outcome. This reflects the informal nature of the Financial Ombudsman as a free alternative to the courts.

Also, I can only consider the actions/inactions of VFS and only the aspects they are responsible for, and I cannot look at certain actions and/or inactions of the dealership which Mr W said he is unhappy about. So, in this decision I have focused only on the aspects I can look into.

The Consumer Rights Act 2015 (CRA) covers agreements such as the one Mr W entered into. Under this agreement, there is an implied term that the goods supplied will be of satisfactory quality. The CRA says that goods will be considered of satisfactory quality where they meet the standard that a reasonable person would consider satisfactory – taking into account the description of the goods, the price paid, and other relevant circumstances. I think in this case those relevant circumstances include, but are not limited to, the age and mileage of the car and the cash price. The CRA says the quality of the goods includes their general state and condition, as well as other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability.

In Mr W's case the car was used, with a cash price of around £24,980. It had covered around 5,681 miles and was around one year old when he acquired it. I would have different expectations of it compared to a brand-new car. But given the age, mileage and price paid, I

think it is fair to say that a reasonable person would have high expectations of it and would not expect anything significant to be wrong shortly after it was acquired.

In summary, the car has been repaired but Mr W covered 60% of the repair costs. And he believes that that he should not be responsible for any of the cost as the fault causing the damage in question was due to the potential manufacturing, design, assembly, or service issue.

First, I considered if there were faults with the car. From the independent inspection, which was carried out in November 2023, I can see the engineer said *“that piston to valve contact has occurred due to the failure of the timing belt”* Based on this evidence, it is clear that the car was faulty. But just because a car was faulty does not automatically mean that it was of unsatisfactory quality when supplied. So, I have considered if the car was of unsatisfactory quality when it was supplied to Mr W.

The independent inspection report initially said that *“piston to valve contact has occurred due to the failure of the timing belt caused by the failure of the timing belt tensioner. This would be due to an overload condition at some point in the vehicle’s past history, exactly when cannot be established however, this started the process of the timing belt tensioner and associated components failing.”* And it concluded that as the car had travelled 48,233 miles over a period of 1,457 days since purchase, the fault was not present or in development at the point of sale.

Following this report Mr W provided the engineer of the independent inspection, with a copy of a discussions’ record he had on an online forum. In this online discussion a mechanic was suggesting that there is a manufacturing flaw which most likely causes a sprocket screw to come loose and that it most likely hit the tensioner arm and then caused the subsequent engine damage to Mr W’s car. Mr W also said that he engaged with the garage that was doing the repairs to the engine and was informed that they had replaced the original screw with a new one. So, following this the engineer, who did the initial independent inspection, concluded that the sprocket could be the likely cause of the fault as it could be that the bolt was displaced. As such, in summary, Mr W believes that this information, combined with the information from the online forum and the subsequent email from that engineer of the independent inspection, confirms that the car was of unsatisfactory quality when supplied.

I have taken the above into consideration, but I have not seen enough evidence to be able to say that most likely the car was not of unsatisfactory quality at the time of supply. I say this because even though the engineer who did the independent inspection, revised his previous conclusion that the failure was caused by an overload to the belt, and has since concluded that the sprocket screw coming loose is likely to be the cause of the failure, he has not concluded that this was a manufacturing flaw or that this issue was due or present at the time of supply. And if this was a manufacturing defect or an issue that was present or developing at the point of supply, I think most likely the failure would have happened sooner than it did as the car, at the time of the inspection/failure, was about five years old, had travelled a significant number of miles (53,888 miles), with approximately 48,000 miles travelled while in Mr W’s possession over a four year period.

While I sympathise with Mr W for the difficulties that he is experiencing, based on all the information available in this case, I do not think there is sufficient evidence to say that most likely VFS should be responsible for the faults with the car. As such, I do not think it would be fair and reasonable to ask VFS to take any further action regarding this complaint.

My final decision

For the reasons given above I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 28 April 2025.

Mike Kozbial
Ombudsman