

The complaint

Mrs B complains that a car she acquired under a conditional sale agreement through Volvo Car Financial Services UK Limited (Volvo) was of unsatisfactory quality.

Reference to Mrs B and Volvo includes their representatives.

What happened

I issued a provisional decision setting out what happened and what I thought about Mrs B's complaint. I've copied the relevant parts of that decision below – and they form part of this final decision.

In March 2023, Mrs B was supplied with a new car through a conditional sale agreement. The cash price of the car was £36,496.10. She paid a deposit of £6,118, and there was also a manufacturer's deposit contribution of £750. The agreement was for £29,628.10 to be paid over 49 months - with 48 payments of £447.03 and a final payment of £17,389.13.

Around a month later, Mrs B started to experience problems with the car. Between May and November 2023, Mrs B reported the following issues, returning the car to the dealership on each occasion for investigation and repair:

- 1 May 2023 – The cabin sounds fell silent on several occasions, requiring a hard reset of the system each time. The dealership carried out a total software upgrade to resolve this issue.*
- 13 May 2023 – The battery experienced a critical failure causing the car to go into limp mode for 10 minutes. The dealership carried out a total software upgrade to resolve this issue.*
- 28 July 2023 – The infotainment system wouldn't stay connected, and there were issues with the screen display. The dealership replaced the USB hub to resolve this issue.*
- 1 November 2023 – The car cut out after braking and started to accelerate. The dealership was unable to find the cause of this issue, but suspected there was a fault with the 'stop start' system.*
- 23 November 2023 – The car started to reverberate, making loud sounds and cutting out when under load. The dealership replaced the spark plugs in an attempt to resolve the issue – but Mrs B said it was still happening a month later.*

Mrs B also said the car regularly had issues selecting the correct gear and would sometimes 'stutter' during a gear change. By the end of November 2023, Mrs B said she'd lost confidence in the car due to the number of problems she'd experienced. She felt the car was unsafe and unreliable. So, she stopped using the car regularly and used her husband's car instead. She asked the dealership to provide either a full refund or a replacement car on 4 December 2023.

The dealership apologised for the problems Mrs B had experienced and contacted Volvo to initiate the rejection process. Volvo didn't allow Mrs B to reject the car – and said the dealership should continue to support Mrs B by repairing the problems. Mrs B didn't want to use the car any longer, so she sold it privately for £26,189. This left a shortfall of £1,449.73 for Mrs B to pay to settle the agreement.

Mrs B complained and said Volvo had acted unfairly by not allowing her to reject the car. She said she had no choice but to sell the car and pay the difference to settle the agreement – so she incurred a loss. She also said her experience with the car had caused her significant stress and anxiety, as she hadn't felt safe driving it. Given the issues she experienced, she didn't think she should have been required to pay anything towards the car. Taking into account the proceeds of the sale and the interest rebate, Mrs B said she paid £13,235.06 towards the car. She asked Volvo to refund this amount and pay compensation for the inconvenience and impact on her mental health.

Volvo didn't agree it had made an error. It said Mrs B had been in possession of the car for more than six months before she asked to reject it – so the onus was on her to prove there was a fault with it. It said that because Mrs B chose to sell the car, it was no longer possible to investigate the matter further.

Mrs B didn't agree and referred her complaint to this service. One of our Investigators considered the complaint and upheld it. They didn't think the car was of satisfactory quality, and said Volvo ought to have allowed Mrs B to reject it. They recommended that Volvo refund 20% of all payments Mrs B made to reflect her lack of enjoyment with the car, plus interest. They also recommended Volvo pay Mrs B £350 to recognise the distress and inconvenience caused.

Volvo accepted the Investigator's recommendations, but Mrs B didn't. In summary, she said the car was unsafe and of unsatisfactory quality, so under the Consumer Rights Act 2015 (CRA) she was due a full refund of the purchase price. She also asked for compensation of £2,990, which she felt was in line with what a court would award taking into account the impact to her mental health. She asked for the complaint to be referred to an Ombudsman for a final decision. So, the matter has been passed to me to decide.

What I've provisionally 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 this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Mrs B was supplied with a car under a conditional sale agreement. This is a regulated consumer credit agreement which means we can investigate complaints about it.

The CRA covers agreements such as the one Mrs B entered. 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.

So, if I thought the car was faulty when Mrs B took possession of it, or that the car wasn't sufficiently durable, and this made the car not of a satisfactory quality, it'd be fair and reasonable to ask Volvo to put this right.

Where information is incomplete or contradictory I've considered what's more likely than not to have happened on the balance of probabilities. In this case, the car has been sold – so the issues Mrs B experienced can't be investigated any further. So, I need to decide whether the car was of unsatisfactory quality based on the evidence and information that's already available.

Volvo supplied Mrs B with a brand-new car, with a sale price of more than £35,000. So, I think it's fair to say that a reasonable person would expect the car to be durable and free of defects for a significant period of time. I would also expect it to be of a higher quality than a cheaper or previously used car. And I think it would be reasonable to expect it to be free from even minor defects shortly after it was acquired.

Looking at the evidence provided by both parties, it seems there's no dispute that Mrs B experienced a number of issues with the car – most of which related to the car's software and electrical systems. While the dealership was able to resolve most of the issues through software upgrades and minor repairs, it couldn't find a way to prevent the braking issues or the car cutting out under load. Arguably, these were the more serious of the issues Mrs B reported and presented a safety concern.

Under the CRA, any fault that occurs within the first six months of the agreement are assumed to have been present or developing at the point of supply – unless there's evidence to suggest otherwise. In this case, some of the issues with the car presented themselves within six months of the agreement – but the braking issues and the car cutting out under load occurred two months later.

The CRA also says a business should be given a single chance to repair a faulty car, and that the customer is entitled to reject it if it still isn't of satisfactory quality after the first repair takes place. This includes situations where multiple faults occur after the initial repair takes place – the business has one opportunity to repair the car overall, not one opportunity per fault. But the customer isn't required to reject the car straight after the first repair takes place, and can allow the business to make further repairs – as Mrs B did here.

Mrs B had been in constant communication with the dealership since the car was supplied, and the dealership had multiple opportunities to inspect and rectify the issues that she'd reported. And problems with the car first started to present themselves just over a month after the agreement started. I don't think a reasonable person would expect a new car to have so many problems within the first year of use. And even though about eight months had passed before some of the other issues presented themselves, I don't think a reasonable person would expect a car that was less than a year old to experience such serious safety issues such as the car cutting out under load.

For these reasons, I'm satisfied the car was of unsatisfactory quality when it was supplied to Mrs B. Mrs B gave the dealership multiple opportunities to repair the car, and asked to reject it on 4 December 2023. I think it's fair that Mrs B lost confidence in the car and stopped using it at that point. I think Volvo should have agreed to allow her to reject the car at that stage.

As the car has now been sold, it's no longer possible for Mrs B to reject it. Instead, Volvo should put Mrs B in the position she'd have been in had it allowed her to reject the car following the request she made on 4 December 2023.

Mrs B has asked Volvo to refund the full amount she paid towards the car and the agreement. But I need to take into account that she was able to use the car for the majority of the time while it was in her possession – and I think it's only fair that she pays for this usage. While she did need to take the car to the dealership on several occasions for investigation and repair, neither her nor the dealership have suggested that she was without the car for any extended period of time before December 2023.

I think Volvo ought to have allowed Mrs B to reject the car following her request on 4 December 2023. From that date, Mrs B was predominantly using her husband's car instead of hers. Although she's suggested that she still needed to use the car on rare occasions when her husband was away, I'm satisfied she didn't have substantial use of the car. And, had Volvo allowed Mrs B to reject the car as it should have done, she wouldn't have used it at all. So, I think it would be fair for Volvo to refund all of the regular monthly payments Mrs B made after 4 December 2023.

The last regular payment was made on 29 February 2024. Mrs B made a final payment of £27,638.73 to settle the agreement – but as the majority of this was funded through the sale of the car, I don't think Volvo needs to refund that amount in full. The sale left a shortfall of £1,449.73, which Mrs B contributed herself. Mrs B wouldn't have needed to make a contribution to settle the agreement if she'd been allowed to reject the car, and I'm satisfied the amount she sold it for was broadly in line with its value based on the valuation Volvo has provided. So, I think it would be fair for Volvo to refund the shortfall.

It's also clear that Mrs B was inconvenienced by having to return the car to the dealership for investigation and repair on more than five occasions. I don't think this would have been necessary had Volvo supplied a car that was of satisfactory quality. Based on the information Mrs B has provided about how the situation impacted her, I think the issues with the car caused her stress and anxiety on several occasions from May 2023 onwards. It's clear that by December 2023 the situation had become very stressful for her. But I've also taken into account that the majority of the issues she had with the car before November 2023 were resolved relatively quickly by the dealership.

Mrs B has asked that Volvo pay compensation of £2,990 – which she feels is in line with what a court might award. I've considered what level of compensation would be a fair and reasonable reflection of the impact the situation has had on Mrs B – taking all of the circumstances into account. Having done so, I think Volvo should pay Mrs B an additional £400 to compensate her for the issues she's experienced.

Responses to my provisional decision

Mrs B accepted my provisional decision. Volvo said it had nothing further to add. Neither party provided any additional comments or submissions for me to consider.

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.

Neither party provided any further submissions in response to my provisional decision. So, I see no reason to depart from the conclusions I reached in that decision. For the reasons explained above, I'm satisfied Volvo ought to have allowed Mrs B to reject the car when she asked to on 4 December 2023. It should therefore put Mrs B in the position she'd have been in had it done so.

Putting things right

For the reasons I've explained, to put things right for Mrs B Volvo should:

- Refund the deposit of £6,118 paid by Mrs B.
- Refund the regular monthly payments made by Mrs B on the agreement after 4 December 2023.
- Refund the amount Mrs B contributed to the final settlement payment (£1,449.73).
- Pay Mrs B 8% simple interest per annum on the above amounts, calculated from the date she made the payments to the date of settlement.[†]
- Remove any adverse information from Mrs B's credit file in relation to the agreement.
- Pay Mrs B an additional £400 to compensate her for the distress and inconvenience caused by being supplied with a car that wasn't of satisfactory quality.

[†]If Volvo considers that tax should be deducted from the interest element of my award, it should provide Mrs B with a certificate showing how much they have taken off so she can reclaim that amount, if she is eligible to do so.

My final decision

For the reasons I've explained, my final decision is that I uphold Mrs B's complaint. I require Volvo Car Financial Services UK Limited to follow my directions as outlined under the "Putting things right" section of this decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 8 May 2025.

Stephen Billings
Ombudsman