

## **The complaint**

Mr E has complained about the quality of a car provided on finance by Volkswagen Financial Services (UK) Limited trading as Audi Financial Services (VWFS).

## **What happened**

VWFS supplied Mr E with a used car on a hire purchase agreement in June 2024. The cash price of the car was around £29,000 and it had covered around 9,100 miles since first registration in October 2023. The hire purchase agreement required payments of around £490 for 47 months followed by a final payment of around £6,000. Mr E paid a deposit of around £6,500.

Mr E said that when he looked at the car, he identified some cosmetic issues which he agreed to accept providing they were repaired by the dealer who I'll call T. On the day he collected the car he was told that one of the keys was missing and would be replaced. Soon after taking delivery of the car Mr E said he found the radiator appeared to be producing a lot of steam. He observed there was debris piled up against the radiator in the engine bay. He sought help from T. He said there was an agreement to remove the debris and give Mr E the new key.

Mr E said that a couple of days later the windscreen required demisting, so he turned on the air-conditioning which led to a five-inch-long crack appearing on the windscreen. Mr E sought help from T who told him to claim on his insurance and T would pay the excess as a gesture of goodwill.

In July 2024 Mr E used his insurance to replace the windscreen and paid an excess. He said that the fitter pointed out that the nearside valance had been damaged which coincided with the debris in the engine bay and damage to the nearside windscreen. He said in his opinion the car had been driven from the road and impacted a grass verge.

Mr E commissioned an independent report at a cost of over £200. The report said there were light scratches on the passenger side front wing and headlight, and clumps of dirt and debris behind the front grill with light stone damage to intercooler fins. It also said that the coolant level was on the minimum mark and that the tyres were adequate. It provided images of stored fault codes. Mr E said the inspector told him that in his opinion the car had been driven through floodwater which has allowed debris to enter through the grill into the engine bay.

In late July Mr E arranged for the car to go back to T. He said he asked for the new key and for the debris to be removed. He also asked for the radiator and coolant to be replaced and all scratches/damage to be repaired. He said that T corroborated the debris and cosmetic damage but denied finding any fault codes. He said that T told him he needed two new tyres.

When he returned a week later, he said the car had been valeted, and the debris removed, but in doing so T had scratched the dashboard trim.

T made Mr E an offer but said it was a gesture of goodwill in full and final settlement, on the condition that it would be confidential. T later maintained the offer and issued a final response referring Mr E to another dispute resolution scheme. The manufacturer reviewed the response and agreed there were no grounds to reject the car.

Mr E complained to VWFS in August 2024. He said he had numerous problems and there was damage to the car. He said the car had been in an accident and an independent inspection advised the car was driven through flood water which caused the debris and windscreen to crack. He said that he was subsequently told the car needed new tyres and T had scratched the dashboard. He said he wanted to reject the car and end the agreement.

VWFS issued its final response in September 2024. It said that T had completed a pre-delivery inspection which confirmed the car was of satisfactory quality. It also said there was no evidence of the car having been in an accident. It declined to allow Mr E to end the agreement and reject the car.

An investigator here looked at the complaint. He said that there wasn't sufficient evidence that there was a fault which made the car of unsatisfactory quality. He didn't recommend that VWFS do anything to resolve the complaint.

Mr E disagreed. In summary he said:

- The car was damaged when he acquired it
- He was told it was an ex-demonstration car but has discovered it was a fleet car which wasn't disclosed
- The expert opinion had been unfairly dismissed
- He was happy to accept the offer to rectify the damage but for the "gagging order"
- The 150-point check was not carried out before the sale otherwise the document would have been provided
- He said that both T and VWFS are calling into question his integrity and honesty
- He said that VWFS are responsible for selling goods that were not of satisfactory quality and it was misleading to say that they cannot be held to account
- The issues didn't develop after the car was supplied, they were identified after

The case has been passed to me to make 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.

Mr E has provided detailed submissions to our service. I acknowledge his strength of feeling and I've read and considered everything he's said, but I've summarised the key points here. While I might not comment on everything (only what I consider key) this is not meant as a discourtesy to either party – it reflects my role resolving disputes informally.

The agreement in this case is a regulated consumer credit agreement. As such, this service is able to consider complaints relating to it. VWFS is also the supplier of the goods under this type of agreement, and responsible for a complaint about their quality.

The Consumer Rights Act 2015 (CRA) is of particular relevance to this complaint. It says that under a contract to supply goods, there is an implied term that "the quality of the goods is satisfactory".

The CRA says the quality of goods are satisfactory if they meet the standard that a reasonable person would consider satisfactory taking into account any description of the goods, the price and all the other relevant circumstances. In a case involving a car, the other relevant circumstances might include things like the age and mileage at the time of supply and the car's history.

The CRA says 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.

Although VWFS are responsible for whether the car was of satisfactory quality at the point of supply, it isn't responsible for T's actions in dealing with Mr E after the supply of the goods. VWFS weren't aware of any issues with the car until Mr E contacted it in August 2024. So, it didn't have an opportunity to look into things earlier.

I can't consider a complaint about what T did after the car was acquired, the customer service provided by T, or its correspondence in relation to the offer. I note that T referred Mr E to another dispute resolution service, which might be able to consider his complaint about the service it offered and whether the conditions of the offer were reasonable.

In Mr E's case, the car supplied was used and had covered around 9,100 miles. There would be different expectations of it than if it was a brand-new car. The car cost around £29,000, which is significantly less than if it was new although it was still a substantial amount. The price paid reflects the age and condition of the car.

What I have to bear in mind is that just because I've seen there were issues with the car, this doesn't necessarily mean the car wasn't of satisfactory quality when it was supplied to Mr E – which is what I need to decide. I'd need to see sufficient evidence that faults made the car of unsatisfactory quality when it was supplied to Mr E. The problem I have is that I've not seen enough evidence to determine that's the case. I take on board that parts of the car might have suffered wear and tear from the previous owner. I don't dispute Mr E's testimony and I've no reason to doubt what he said. But that doesn't mean that I can reach a conclusion that the car wasn't of satisfactory quality.

Mr E has provided detailed submissions and a clear timeline about when he noted issues with the car. He's also provided a copy of an inspection report and a health check. Conversely VWFS have provided evidence from T which indicates the car was inspected before it was supplied, and also in July 2024, and no mechanical or electrical faults could be found. Our service can't compel expert witnesses and I'm somewhat reliant on the experts having seen the car to clearly state what the faults are, and whether they were present or developing at the point of supply. I've not seen sufficient evidence to support Mr E's assertion that the pre-delivery inspection didn't happen.

Mr E paid for his windscreen to be replaced and he said the fitter noted damage to the valance. But that doesn't mean that I can determine there was a fault with the windscreen when the car was supplied. Unfortunately, due to the nature of the windscreen cracking, and the absence of any expert report on what caused it, I'm unable to say there was pre-existing damage which caused the crack.

The expert report indicates that there were light scratches on the passenger side front wing and headlight, and clumps of dirt and debris behind the front grill with light stone damage to intercooler fins. It also said that the coolant level was on the minimum mark and that the tyres were adequate. There are images of stored fault codes, but no explanation of what they relate to or whether they are historic. Mr E said the inspector told him that in his opinion the car had been driven through floodwater which has allowed debris to enter through the

grill into the engine bay. But there isn't any commentary on this in the report, whether that might have then caused a fault to develop, or whether the car wasn't of satisfactory quality at the point of supply. It is my understanding that the debris has now been removed and there isn't further evidence that it has caused an ongoing problem. Even if I accept that the debris and scratches were present when the car was supplied, and I've no reason to doubt Mr E's word, it doesn't necessarily follow that the car wasn't of satisfactory quality.

But if I were to conclude that the debris meant the car wasn't of satisfactory quality, and I have to be clear that I haven't, it seems that has now been removed. So, the car might have been made to conform to the contract, which is a remedy set out in the CRA.

As I explained earlier, T weren't acting as VWFS' agent after the car was supplied, so the damage to the dashboard isn't something that I can hold VWFS responsible for.

Mr E has supplied a digital health check from September 2024. The mileage is shown as around 11,000. Two of the tyres are identified as needing a replacement. But the difficulty is that tyres are wear and tear items and would need to be maintained by the consumer. The risk with buying a second-hand car is that some parts will be more road worn and require replacement sooner. Given the time that elapsed, the distance travelled since the car was acquired, and earlier reports showing the tyres in an adequate condition, I'm unable to say the tyres needing replacing meant the car wasn't of satisfactory quality at the point of supply. This was a used car and there is an expectation that there is likely to be some wear and tear on the components of a car with that age and mileage, rather than being in a perfect as-new condition. I'm not saying something definitely didn't go wrong, merely that I don't think it would have been unreasonable for VWFS to have expected there to be more persuasive evidence that the issues meant the car had a fault which was present at the point of supply, which in turn made the car not of satisfactory quality.

I note that Mr E has also told us that since referring to our service he has found that the car might have been used as a fleet car. This didn't form part of the complaint that was made to VWFS so I haven't dealt with it in my decision, but if Mr E is unhappy about that he can contact VWFS again.

Mr E says he's lost out because he's paid for repairs to the car and for an independent report. There would only be grounds for me to direct VWFS to refund any sums if I were persuaded the car wasn't of satisfactory quality.

I understand Mr E is also unhappy with how he's been treated by VWFS. Considering all the circumstances here I haven't found its response to his complaint was unreasonable.

I appreciate Mr E is unhappy he feels he's lost out. I'm sorry to disappoint Mr E, but without sufficient evidence of a fault which made the car of unsatisfactory quality, I find I don't have the grounds to direct VWFS to refund anything, or allow him to reject the car.

### **My final decision**

My final decision is that I do not uphold this complaint.

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

Caroline Kirby  
**Ombudsman**