

complaint

Mrs J complains that a car she obtained under a hire purchase agreement with Volkswagen Financial Services (UK) Limited (trading as Audi Finance) was not of satisfactory quality, and that the cost of repairs has not been fully refunded.

background

About three weeks after Mrs J got the car she had problems with it and the power steering was repaired at no cost to her. But a few days later the clutch failed and although the dealer eventually covered some of the cost of repair, Mrs J was asked to pay 40% of it. The dealer said that the clutch plates were classed as wear and tear items. Audi Finance said that the clutch and flywheel were burnt out and that that could only have been caused by driving style. However it did offer £100 towards the repairs as a goodwill gesture.

Our adjudicator did not recommend that the complaint was upheld. He said that evidence from the dealer showed that shortly before the sale the car had been checked in various ways, and some faults which were identified had been repaired. He felt that if the clutch problem had been present then it too would have been fixed. He therefore thought that an offer to pay 60% of the cost of the clutch repair was fair and reasonable.

Mrs J asked for her complaint to be reviewed. She said she had reported a burning smell to the dealer when she had first taken the car in, and trusted they would investigate. She suggested that a slipping clutch could have caused the issue with the flywheel and unnecessary wear to the clutch. She had kept her previous cars for over five years with no clutch issues so did not think her driving style was the problem. She said the car must have been provided with a faulty clutch or one that was badly worn.

my provisional decision

After considering all the evidence, I issued a provisional decision to both parties on 4 June 2015. I summarise my findings.

The job card from the garage for the first time Mrs J returned the car (less than a month after she got it) confirmed that as well as the problem with the power steering she had reported a burning smell. That smell was one of the symptoms she reported when the clutch was found to have failed a few weeks later. That made it seem more likely that the system was already failing when Mrs J got the car- since Mrs J had had the car less than a month and had driven less than 500 miles when she first reported the smell. Even if there was an issue with Mrs J's driving style, it seemed unlikely that that would cause such serious problems so soon, unless there had been an inherent defect in the system at the time she got the car.

I had also considered the fact that the pre-sale check did not identify any problem: but the job card for that suggested that the car was only driven six miles during the road test, so it was possible that an existing problem, and the burning smell, might not have become apparent on such a short trip.

So, on balance, I thought that it was more likely than not that there was an inherent defect with the clutch system when Mrs J got the car.

Subject to any further comments or evidence from Mrs J or Audi Finance, my provisional decision was to uphold the complaint. I intended to say that Volkswagen Financial Services (UK) Limited should pay Mrs J:

- £645.82, plus interest on that at 8% simple from 11 June 2014 (when Mrs J says she paid the repair bill) to date of settlement: and
- £100 for the trouble and upset caused by these events.

Mrs J had no comments on my provisional decision.

Audi Finance said that the dealer had confirmed that the car had not shown any sign of clutch wear or clutch slip when the vehicle was inspected eleven days before sale, and had confirmed no manufacturing defects were present at that time. The wear rate of a clutch could be significantly increased by driving habits. Mrs J had not driven Audis before so would be unfamiliar with the feel of the Audi clutch, and bad habits often developed with time. An odour would only become apparent if the clutch got too hot, and would clear when the clutch cooled but could have a limiting effect on the life of the clutch. Because of all that, and the age and mileage of the car, Audi Finance considered that the clutch had burnt out due to wear and tear. It had not been replaced by an approved Audi dealer since registration. So it argued that neither Audi UK nor Audi Finance should be held responsible for the overheating damage.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

While no clutch problem was noted on the pre-sale inspection, that inspection did not identify the issues with a wheel bearing and the power steering pump which had to be replaced (under warranty) about a month after sale. Also, as I noted previously, the car was only driven six miles in the pre-sale inspection. So, the fact that the inspection did not identify a clutch problem does not convince me that there could not also have been an inherent defect with the clutch at point of sale. If Audi clutches are so different to use correctly from those in other cars, I might have expected customers to be advised about that.

I can see that the clutch in a car of that mileage would inevitably have suffered some wear and tear. But the fact that the clutch had such a serious problem so soon after Mrs J got it and when she had not driven far, still make me believe that it is more likely than not that there had been an inherent defect with the clutch when Mrs J got the car. I therefore still think that Volkswagen Financial Services (UK) Limited should refund to Mrs J the £645.82 she paid towards the clutch repair along with interest on that and £100 for the trouble and upset caused by these events.

my final decision

My decision is that I uphold this complaint.

In full and final settlement I require Volkswagen Financial Services (UK) Limited to pay Mrs J:

- £645.82, plus interest on that at 8% simple from 11 June 2014 to date of settlement;
and
- £100 for the trouble and upset caused by these events.

Under the rules of the Financial Ombudsman Service, I am required to ask Mrs J to accept or reject my decision before 17 August 2015.

Hilary Bainbridge
ombudsman