

The complaint

Mr H complains about interest and charges in respect of his conditional sale agreement with Vauxhall Finance plc ("Vauxhall") initially totalling £654.39.

What happened

In May 2019 Mr H entered into an agreement with Vauxhall for a used car costing £14,787.78. Under the terms of the agreement, everything else being equal, Mr H undertook to pay a deposit of £500 followed by 59 monthly payments of £314.41 and 1 monthly payment of £314.81 making a total repayable of £19,365 at an APR of 12.2%.

In February 2023 Mr H requested that the car be collected and for his agreement to be marked as being voluntary terminated with nothing further to pay.

Following collection of the car Vauxhall invoiced Mr H the sum of £654.39 broken down as follows:

- | | |
|---------------------|---------|
| • damage charge | £174 |
| • collection charge | £100 |
| • arrears and fees | £380.39 |
| • total | £654.39 |

In March 2023 Mr H complained to Vauxhall about the sum of £654.39 it was seeking the recovery of from him.

In March 2023 Vauxhall issued Mr H with a final response letter ("FRL"). Under cover of this FRL Vauxhall said it was prepared to reduce the sum it was seeking the recovery of from Mr H to £478.39 broken down as follows:

- | | |
|---------------------|-----------------|
| • damage charge | £98 (from £174) |
| • collection charge | £0 (from £100) |
| • arrears and fees | £380.39 |
| • total | £478.39 |

In March 2023, and unhappy with Vauxhall's FRL, Mr H referred his complaint to our service.

Mr H's complaint was considered by one of our investigators who came to the view that having agreed to reduce the sum it was seeking the recovery of from Mr H to £478.39 Vauxhall need do nothing further.

Mr H didn't agree with the investigator's view so his complaint has been passed to me for review and 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.

Having done so I can confirm that I've come to the same overall outcome as the investigator and for broadly the same reasons. There is also very little I can usefully add to what has already been said.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

I would also add that where the information I've got is incomplete, unclear, or contradictory, I've to base my decision on the balance of probabilities.

damage charges (£38 NSF door dent and £60 OSF wheel scratch)

The agreement Mr H signed states:

"You have the 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 £9,682.50. 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."

"The full terms and conditions of this agreement are contained on pages 1 – 7 of this document. Please read these carefully and only sign this agreement if you wish to be legally bound by its terms."

As I understand it clause 20 of the agreement states:

"You will keep the vehicle in good condition and repair which means that the vehicle must: have a service booklet stamped by an authorised dealer showing that it has been regularly serviced and maintained in accordance with the manufacturer's or UK distributor's recommendations; have a valid and current MOT and require little or no work for a new certificate; need no refurbishment for retail sale; be free from mechanical or body damage; in its original paintwork and trim and with its interior matching the original specification free from damage, all subject to fair wear and tear appropriate to the age and mileage of the Vehicle."

Given the above I'm satisfied that Mr H agreed to pay Vauxhall for any damage to the car, on its return, that is deemed beyond reasonable wear and tear.

Vauxhall says its own wear and tear guidance states:

"Bodywork" – *The vehicle body must be sound, well-maintained and free from any panel damage or disfigurement. Any impact damage to the chassis or underbody will not be acceptable. Small areas of chipping are acceptable as are light scratches up to 25mm in length (relative to the vehicle's age)."*

"Paint work" – *All paint work on the vehicle, including bodywork, side mirrors and bumpers/moldings should be in their original condition, with no areas of discolouration, rust or corrosion. Some light stone chipping, and very minor dents up to 10mm are acceptable. If chips or scratches have exposed primer or bare metal, the customer should ensure that such damage has been appropriately and professionally repaired before inspection. Minor scuffing to bumpers up to 25mm is acceptable."*

The BVRLA fair wear and tear guide, in respect of dents, says:

“Dents of 15mm or less in diameter are acceptable provided there are no more than two per panel and the paint surface is not broken. Dents on the roof or on the swage line of any panel are not acceptable”

I've reviewed the inspection report photograph in respect of the dent to the NSF door. I'm satisfied that this is in excess of 15mm (the more generous measure above) and a charge of £38 in this respect is both fair and reasonable.

Vauxhall says its own wear and tear guidance states:

“Wheels, Tyres & Trims – All wheel trims, where fitted, must be present when the vehicle is returned, and trims and rims must be free from holes and dents. Alloy wheels with minor scuffing are acceptable up to 25mm in length. Scoring and other damage to alloy wheels are outside of fair wear and tear.”

The BVRLA fair wear and tear guide, in respect of tyres and wheels, says:

“Scuffs up to 50mm on the total circumference of the wheel rim and on alloy wheels/wheel hubs are acceptable”

I've reviewed the inspection report photograph in respect of the scuffing to the OSF wheel. I'm satisfied that this is in excess of 50mm (the more generous measure above) and a charge of £60 in this respect is both fair and reasonable.

I'm aware of the age of the car when first acquired by Mr H and accept that the damage for which Vauxhall is now seeking the sum of £98 for might have been present in May 2019. But given the severity of this damage I'm not persuaded, on the balance of probabilities, this possibility is more likely than not.

I also accept that the damage for which Vauxhall is now seeking the sum of £98 might have occurred after the car was collected from Mr H and sold on. But for the same reasons as the investigator has already shared with the parties I think this is very unlikely.

arrears and fees (£380.39)

In May 2020 Mr H was granted a three month payment holiday.

In November 2020 Mr H was granted a second three month payment holiday.

As explained by the investigator guidance was issued by the Financial Conduct Authority in 2020 in respect of motor finance agreements and coronavirus. Amongst other things this guidance said:

“a customer should have no liability to pay any charge or fee in connection with the permitting of a full or partial payment deferral ... the exception to this is where interest continues to accrue at the contractual rate ... the continuing accrual of interest on sums owed under the agreement that remain unpaid would not be inconsistent with this guidance.”

With this and what was other guidance and rules in place in 2020 and 2021 in mind I'm satisfied that Vauxhall was entitled to charge interest on Mr H's six deferred payments. I'm also satisfied, having had regard to system notes provided by Vauxhall, that Mr H was made aware that interest would accrue during his two payment holidays and become payable at some future point in time, in this case on voluntary termination.

I will now turn to the sum of £380.39 Vauxhall is seeking the recovery of from Mr H in this respect. I've not seen how this sum has been calculated, but it doesn't appear to me to be incorrect. However, I would add that our service doesn't provide an auditing service so if Mr H believes this sum has been incorrectly calculated it's always open to him to have this sum audited by a professional, such as an actuary or accountant, at his own expense.

If such an audit was to reveal the figure of £380.39 to be incorrect Mr H could then bring a new complaint about this and include the cost of the audit in his claim for compensation. But as I say above the sum of £380.39 doesn't appear to me to have been miscalculated.

other matters

Like the investigator I'm not persuaded that Vauxhall has recorded any adverse or negative information with credit reference agencies in respect of Mr H's agreement.

I appreciate Mr H might be disappointed by my decision but taking everything into account I'm satisfied that Vauxhall is entitled to seek from him the sum of £478.39.

My final decision

My final decision is that having agreed to reduce the sum it's seeking the recovery of from Mr H to £478.39 Vauxhall Finance plc need do nothing further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 1 February 2024.

Peter Cook
Ombudsman