

The complaint

Mr S is unhappy that Volkswagen Financial Services (UK) Limited trading as Audi Financial Services ('VWFS') gave him an incorrect figure when he voluntarily terminated ('VT') the hire purchase agreement he had with them.

What happened

On 29 April 2019 Mr S was supplied with a used car through a hire purchase agreement with VWFS. He paid an advance payment of £2,851 and the agreement was for £32,555 over 49 months; with 48 monthly payments of £470.78 and a final payment of £19,878.75 if he wanted to keep the car at the end of the agreement.

Mr S was moving overseas, and, in November 2021, he contacted VWFS to ask about VT. VWFS told him that, apart from any damage or excess mileage charges, he had nothing more to pay. They also provided him with a settlement quote if he wanted to keep the car or sell it privately. Mr S VT'd the agreement and was charged £2,081.64 for damages to the car and for exceeding the allowable mileage. He was also charged a £5,695.99 VT shortfall. VWFS have subsequently waived the excess mileage charge.

Mr S complained to VWFS. And they acknowledged they'd given him incorrect information when he asked about any VT costs. VWFS apologised for this and offered him £150 for any inconvenience caused. Mr S wasn't happy with this response and said he would've made alternative arrangements if he'd been given the correct information at the outset. And he thought VWFS should waive the shortfall. So, he brought his complaint to the financial ombudsman service for investigation.

Our investigator said it wasn't disputed that Mr S had been given incorrect information. And she had no reason to doubt that, if he'd been given the correct information, he may've done something differently. However, she thought the agreement Mr S had signed was clear in how much needed to be paid for VT, and had VWFS told him the correct amount, it would've needed to be paid. So, she didn't think it was fair to ask VWFS to waive the shortfall.

But she did think that Mr S had been inconvenienced by what'd happened, and he now needs to arrange to pay the shortfall. So, the investigator recommended that VWFS increase the compensation from £150 to £400 to reflect this.

VWFS agreed with the investigator, but Mr S didn't. He didn't think all the facts had been taken into consideration, and VWFS had told him twice that there was no VT charge. Which he felt was reasonable for him to rely on. And he said that, had they not done this, he would've tried to sell the car privately *"which would've recouped some or all of the VT charge."* So, he's asked for an ombudsman 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.

Having done so, I have reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

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 what I consider was good industry practice at the time. Mr S was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we're able to investigate complaints about it.

The basic facts of this case aren't disputed. And VWFS acknowledge they gave Mr S incorrect information about the VT shortfall. And Mr S relied on this to decide what course of action to take. Given this, I don't intend to repeat the facts or circumstances involved in this complaint. Instead, my decision will focus on what VWFS need to do to put things right.

Putting things right

position they would've been had things not gone wrong. However, that's not always possible, as is the case here – the car has already been disposed of by VWFS, so it can't be returned to Mr S to give him the opportunity to sell it privately. As such, I'll consider the impact this has had on Mr S.

Mr S has said that, if he'd been told that there was a VT shortfall, he would've considered his options. And I don't doubt this was the case. But, as he was relocating abroad, keeping the car and maintaining payments until there was no VT shortfall wasn't an option.

Mr S has also said that he would've tried to sell the car privately, for an amount that would've cleared all, or almost all, of the settlement figure. However, he's also said that time was tight as he was relocating overseas, so he took the easiest and quickest option, which was VT.

I've no doubt that Mr S could've tried to sell the car under these circumstances. And he's said that similar age cars, with similar mileage, were being advertised for more than the settlement figure being quoted by VWFS.

But these are advertised prices, and not achieved prices. And I've seen nothing to show me Mr S would've achieved the sale price he needed for the car, within the limited timeframe he had available to him. As such, I can't say that, had Mr S been given the correct information about VT, that he wouldn't have had to hand the car back with no shortfall to pay.

What's more, if VWFS had misinformed Mr S that the VT shortfall was (for example) £10,000, instead of the around £5,000 it was, and Mr S paid this; I'd expect VWFS to reimburse the additional amount Mr S paid, as it's unfair that he pay an amount different to what the agreement meant he was required to pay. As such, the same logic would apply to if Mr S paid less than was required – he'd need to pay the additional amount to bring the payment to what the agreement required him to pay.

Because of this, I'm in agreement with the investigator that it's not fair for VWFS to waive the VT shortfall.

But this isn't to say that Mr S hasn't been inconvenienced by this matter. And it would've come as a shock to him to find out there was a VT shortfall when none was expected. The investigator has recommended VWFS pay Mr S a total of £400 compensation for this, and VWFS have agreed. Had this recommendation not been made, I wouldn't have directed an amount in excess of £400 given all the circumstances. As such, I intend to adopt this recommendation as part of my final decision.

So, VWFS should increase the compensation they pay to Mr S from £150 to £400. And they should arrange a mutually agreeable payment plan with Mr S for the shortfall amount he owes.

My final decision

For the reasons explained, I uphold Mr S's complaint. And Volkswagen Financial Services (UK) Limited trading as Audi Financial Services must follow my directions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 20 September 2022.

Andrew Burford
Ombudsman