

The complaint

Mr S has complained to us about the administration of a conditional sale agreement by Vauxhall Finance plc (“Vauxhall”).

What happened

In March 2022 Mr S acquired a used car over 60 months with the agreement provided by Vauxhall. The monthly payments were £306.98.

Unfortunately on 20 August 2022 there was an accident involving the car. Mr S’s insurer deemed the car a total loss. Mr S also made a claim on his GAP insurance. He subsequently informed Vauxhall he had been injured in the accident, was off work as a result and was unable to make his loan repayment.

On 4 October Vauxhall sent Mr S a default notice stating he had to pay total arrears of £17497.86. In late October the motor insurer paid out £9,480. Then on 11 November the GAP insurer paid £2444.98. Mr S says he expected to receive a revised shortfall letter following this, as he says Vauxhall told him in a phone call he would receive one.

On 16 January 2023 Vauxhall wrote to Mr S to say that the amount outstanding had been passed to the debt recovery department, as he had a balance of £5572.88. The letter said that an income and expenditure form was enclosed, along with asking Mr S for a proposed payment plan.

Mr S was unhappy with this and complained to Vauxhall in January 2023. Vauxhall sent its final response to Mr S on 24 January. It said under the agreement when the vehicle was written off the full outstanding balance became due. It apologised for Mr S having been told he would be sent an updated shortfall letter. It said that in fact, updated letters were not automatically sent out. Having apologised, it told him this mistake would be dealt with as a training issue.

Mr S remained unhappy and brought his complaint to our service. He said he would like the settlement figure offered with a reasonable time to pay. He would also like financial compensation for being given misinformation and having been caused stress by having to make numerous efforts to resolve things.

Our investigator gave her opinion. She said, in summary, that she didn’t think the complaint should be upheld. She said Vauxhall had apologised for giving Mr S incorrect information about a revised shortfall letter being sent out. She said that it was clear from the correspondence that Vauxhall had given Mr S the necessary information for him to contact the right team to set up a repayment plan. Based on this, she said she would not ask Vauxhall to do anything further.

Mr S remained unhappy, so the complaint was passed to me. I sent Mr S and Vauxhall a provisional decision on 12 December 2023. My findings from this decision were as follows:

“I’ve looked at this complaint on the balance of probabilities – that is, what I consider is most likely to have happened in light of the available evidence.

Mr S complains about the administration of a conditional sale agreement. Entering into consumer credit agreements like this as a lender is a regulated activity, so I’m satisfied I can consider Mr S’s complaint against Vauxhall.

There are a few aspects addressed in Vauxhall’s final response, but Mr S has made it clear what the crux of the complaint is. Mr S says he is unhappy with being told he would receive updated shortfall letters which didn’t arrive. And he says if these had been sent sooner, he could have looked into settling the debt earlier.

First of all, I’ve looked at Mr S’s finance agreement. In the terms and conditions it said: “18.5. If the vehicle is declared to be a total loss by the insurer (Total Loss) then the Outstanding Balance (as defined below) will become Immediately due and payable to us and you must pay us this sum less any statutory rebate to which you are entitled. The insurance proceeds shall be applied firstly to pay off the Outstanding Balance (as defined below). You will not be able to use the proceeds of the Insurance to replace the Vehicle.

*18.6. The Outstanding Balance in this clause means:
(a) all arrears and other payments due at the date of the Total Loss; and
(b) all Repayments that would have become due and payable during the remainder of this Agreement except for the occurrence of the Total Loss less any rebate to which you may be entitled.”*

This set out that the full amount under the agreement (less any rebate) would become payable if the car was declared a total loss.

Next, there were delays involved with the car and GAP insurance paying out. On this point Mr S told us that:

“...I am not disputing the outstanding amount at present, however I am disputing that when requested for a revised letter it was agreed...”

I am not trying to hold Vauxhall accountable for insurance paying delays. I am holding them accountable to agreeing to send a revised letter and the agent said I would get one but never did...”

And Mr S has also said that although he was told by Vauxhall that he’d be contacted about the final settlement figure and a payment plan, no one ever contacted him. He said he asked on numerous occasions about a correct letter being issued and was “brushed off.”

Mr S told us that following the accident he was injured, out of work and due to this unable to make his repayments. He said he could have borrowed the money to repay. But I don’t think it’s likely that borrowing would have been easy or straightforward, especially when Mr S’s income had suffered. So overall, I don’t think it’s likely that Vauxhall’s mistake with the updated letter had an impact on Mr S repaying.

Next, Mr S also told us that because of poor communication the amount he owed went from about £1400 to over £5600. Looking at the paperwork we received from Vauxhall, I can see that there was mention of a figure of just over £1400. This was noted in December 2022 and January 2023. We asked Vauxhall to provide clarification about the difference between the figures. However it didn’t respond. I can also see from Vauxhall’s paperwork that in early November it appears it wrote to Mr S saying the shortfall on the account was £3925.30.

Next, I also considered what Mr S has said about the stress that he has been caused. He told Vauxhall he’d been injured in the accident, was unable to work and then struggled with the repayments. And it is clear from the paperwork that Vauxhall has given us that Mr S

contacted it numerous times trying to sort things out, and he told Vauxhall he was concerned. Also based on the information available, there has been confusing and unclear information given to Mr S. Considering everything in the round, I don't think that this was fair or reasonable of Vauxhall. It seems likely to me that Mr S was caused distress and inconvenience by this. And he was already going through a difficult time because of the circumstances of the car accident, circumstances of which Vauxhall was aware. So thinking about everything that happened I think it would be appropriate for Vauxhall to pay Mr S £200.

Finally I've also considered that Mr S told us that he wouldn't be able to repay the entire amount all at once, and would like the settlement figure to be reissued and a reasonable time to pay.

However Vauxhall hasn't indicated that it won't do any of this for Mr S. For example on 16 January 2023, it wrote to him and invited him to propose a payment plan and complete an income and expenditure form. I'd encourage Mr S to use this to get in touch and provide Vauxhall with the information it needs. Importantly Vauxhall has responsibilities to treat Mr S with forbearance and due consideration if he's in financial difficulty."

I gave both parties four weeks to come back with any further information or evidence. Vauxhall responded and said it agreed with the provisional decision. Mr S responded with further submissions about points he told us had been missed.

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.

I've thought about all the information in this complaint again. In addition, I've considered all the points Mr S told us about in his recent response. I still think the amount of £200 is fair and reasonable to reflect what happened.

Putting things right

Vauxhall Finance plc needs to pay Mr S £200.

My final decision

My final decision is that I uphold this complaint and Vauxhall Finance plc needs to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 8 February 2024.

Katrina Hyde
Ombudsman