

## The complaint

Mr L complains that Volkswagen Financial Services (UK) Limited trading as Porsche Financial Services (“VWFS”) overcharged him when he settled his agreement early.

## What happened

Mr L acquired a brand new car under a hire purchase agreement with VWFS in February 2023. The cash price of the car was £103,537. Mr L paid £70,000 as a deposit. Under the agreement, he was required to make 24 monthly payments of £1,553.60. Mr L collected the car in March 2023.

In October 2023, Mr L contacted VWFS and asked for a settlement figure. VWFS told him the settlement figure was £24,853.39. Mr L paid this and said he assumed this included the payment for the October 2023 monthly statement. However, he said he later noticed the monthly payment for October 2023 had been taken out the same day he paid the settlement amount. Mr L says he contacted VWFS and it told him he had made an overpayment. He says he was told it would be credited back to his account within 10 working days. This didn't happen.

Mr L complained to VWFS. He said he had been charged £2,200 for taking out the hire purchase agreement when he was told he only had to pay a £10 option to purchase fee.

VWFS issued its response to Mr L's complaint in December 2023. It says the terms of Mr L's hire purchase agreement explained that interest would be payable. It also said Mr L's settlement quotation included 58 days interest and although this wasn't specifically referenced in the agreement, this was connected to the Consumer Credit Act 1974. It said it had calculated a statutory rebate using the Government Actuary's Department calculator. It didn't uphold Mr L's complaint.

Unhappy with this, Mr L referred his complaint to this service. He reiterated his complaint and acknowledged that he didn't read the small print of the hire purchase agreement. Mr L said to put things right he wanted the overcharged amount of £1,097.95 paid back plus six months of interest repayments.

Our investigator looked into the complaint but didn't think VWFS needed to do anything further. He said he was persuaded that VWFS had calculated the settlement figure correctly. He also said he thought Mr L was provided with incorrect information when he was told he would be repaid one monthly payment after he had settled the agreement. He said it appeared some confusion had taken place as the advisor may have assumed the monthly payment had already been paid on that date. He said VWFS should pay Mr L £100 for the distress and inconvenience caused when it provided him with incorrect information.

VWFS agreed. Mr L disagreed. He said he had called a couple of days before the October 2023 payment was due and so, he correctly assumed the settlement payment he made included the October 2023 payment. He said he took the word of VWFS when it told him he had overpaid. He says had he known he'd have to pay to settle the loan earlier, he wouldn't have taken it out as he could have borrowed the money from elsewhere. Mr L also said he only had the loan for seven months but he was charged eight monthly payments.

As Mr L remains in disagreement, the complaint has been passed to me to decide.

## 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.

When considering what's fair and reasonable, I take into account relevant law, regulations and guidance. Where evidence is incomplete, inconsistent or contradictory, I reach my view on the balance of probabilities – in other words, what I consider most likely to have happened in light of the available evidence and wider circumstances.

I've read and considered the whole file and acknowledge that Mr L has raised a number of different complaint points. I've concentrated 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. The rules of this service allow me to do this.

Mr L was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we're able to look into complaints about it.

The hire purchase agreement confirms that the cash price of the car is £103,537 and that Mr L paid an advance payment of £70,000. This means the amount of credit was £33,537. The charge for Mr L borrowing this amount was £3,759.40 which included the option to pay fee of £10. If Mr L's agreement ran to term and the repayments were made as per the agreement, Mr L was due to pay a total of £107,296.40 for the car.

Mr L settled his agreement after making seven monthly payments of £1,553.60. These totalled £10,735.20. Mr L paid a settlement amount of £24,853.39 on 23 October 2023. But Mr L says he assumed the monthly payment that was due on 23 October 2023 was included in the settlement figure.

So, what I need to decide in this case is whether VWFS has calculated the early settlement amount fairly and if it hasn't, whether it needs to do anything to put things right.

A rebate of interest is calculated based on a formula set out in law within The Consumer Credit (Early Settlement) Regulations 2004.

The starting point is a calculation of the total amount payable (£107,296.40), less any payments already paid (£70,000 + £1,553.60 x 7). If we apply this to Mr L's agreement, this would leave a figure of around £26,561.20. Then the formula works out how much of the future interest and charges the customer still needs to pay. Typically this is around 58 days' worth of interest. The future interest applicable to the agreement at the time Mr L requested the settlement figure was around £1,931.89. Mr L paid a settlement figure of £24,853.39 which means he received a rebate of around £1,707.81. This means that VWFS only applied future interest of around £224.08 – which it is entitled to do under the regulations because the agreement ended early. The formula set out in law allows for VWFS to charge Mr L for some future interest and charges.

I've listened to the call in which Mr L asked for the settlement figure. During the call, he said he wanted to pay the loan back in full. VWFS said it would provide a quote which would last 28 days. Within the 28 days, a loan repayment of £1,553.60 was due to be paid. So whilst I can understand why Mr L thought the October 2023 loan repayment would be included in the settlement amount he was paying, because a payment was due within the 28 day settlement quote period, this amount was still owed. Having said that, I think that VWFS could have made this clearer during the call.

Overall, I'm satisfied the early settlement payment has been worked out correctly in line with the regulations. This means I don't think Mr L has paid more than he needed to and so, it follows that VWFS don't need to do anything further.

*Did VWFS act unfairly or unreasonably in any other way?*

Mr L says he was told he wouldn't have to pay any exit fees apart from the £10 option to purchase fee if he settled his hire purchase agreement early.

Mr L's hire purchase agreement is regulated by The Consumer Credit Act 1974. The Consumer Credit Act 1974 allows for early payment of an agreement by a debtor. It says that an early settlement figure should be calculated in line with The Consumer Credit (Early Settlement) Regulations 2004.

Under "7. *Early repayment*" in the hire purchase agreement terms, it states:

*"7.1 You have a right at any time to make early repayment. To do so, you should give us notice, and pay us some or all of the sums payable by you before you are obliged to do so under the terms of this Agreement. The payment should be made before the end of the period of 28 days, beginning with the day following the day that we receive your notice, or on or before any later date specified in your notice.*

*7.2 Any such repayment will be applied first to discharge sums which have already fallen due under this Agreement. The balance will then be applied to discharge your indebtedness under this Agreement by the amount paid and any applicable statutory rebate..."*

Whilst I appreciate there aren't any specific references within the agreement as to how any additional amounts would be charged should the agreement be settled early, I'm satisfied the agreement does state that there would be a statutory rebate.

Mr L has said he wasn't told he would be charged anything but the option to repay fee of £10 if he settled the agreement early, but the agreement itself is clear and sets out that there is a charge for Mr L taking out the agreement. It also states that any early repayment would have an applicable statutory rebate. Mr L has said he didn't read the terms of the hire purchase agreement in close detail, but he did sign and agree to the terms of it. So although Mr L feels strongly about this, I don't think VWFS has acted unfairly here, as it applied the correct legislation.

In relation to the advice provided by VWFS, I think VWFS could have been clearer when it provided Mr L with the settlement amount. I think it should have explained to Mr L that any payments due until the 28 day notice expired, would still be payable in addition to the early settlement payment. Mr L has recently said he called on 18 October 2023 to request the settlement payment. But he actually called on 23 October 2023, which is the same day the October 2023 monthly payment was due to leave his account. I can see why VWFS would have assumed the October 2023 monthly payment would have already been paid and so, it didn't include this in the settlement figure it provided.

Having said this, I'm satisfied that VWFS provided incorrect information to Mr L in November 2023 when it told him it would be refunding the extra payment. The extra payment was owed by Mr L as per the terms of his agreement and this was explained to Mr L during a later call. And so, there was no extra payment for VWFS to refund to Mr L. However, VWFS did provide Mr L with incorrect information. This incorrect information led Mr L to believe he would be receiving a refund and this caused him distress and inconvenience when he later found he wouldn't be receiving it. As a result of this, VWFS should pay Mr L £100 for the distress and inconvenience it caused to Mr L.

### **My final decision**

My final decision is that I uphold Mr L's complaint.

I direct Volkswagen Financial Services (UK) Limited trading as Porsche Financial Services to pay Mr L £100 for the distress and inconvenience caused.

If Volkswagen Financial Services (UK) Limited trading as Porsche Financial Services does not pay this £100 compensation for distress and inconvenience within 28 days of the date on which we tell it Mr L accepts my final decision then it must also pay 8% simple yearly interest on this from the date of my final decision to the date of payment.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 2 September 2024.

Sonia Ahmed  
**Ombudsman**