DRN-4955155

## The complaint

Mr M complains about a decision taken by Stellantis Financial Services UK Limited trading as Vauxhall Finance ("Vauxhall Finance") to seek payment of £720.00 from him after he took the decision to voluntary terminate his conditional sale agreement ("agreement") with it and return the car subject to it.

Reference to Vauxhall Finance in this decision also includes its agents.

## What happened

In May 2021 Mr M entered into an agreement with Vauxhall Finance for a used car costing £10,098.25 and which came with an odometer reading of 16,222.

Under the terms of the agreement, everything else being equal, Mr M undertook to pay a deposit of £2,000.00 followed by 47 monthly payments of £153.85 and 1 monthly payment of £2,775.00 making a total repayable of £12,005.95 at an APR of 8.9%.

Mr M, as was his right, took the decision to voluntary terminate his agreement and return the car to Vauxhall Finance. He did so with 29,303 miles on the odometer.

After the car had been returned to Vauxhall Finance (and sold on) it invoiced Mr M £2,510.00 broken down as follows:

| | |
|---|---|
| • gross damage charge (13 items) | £2,195.00 |
| • removed damage charge (bonnet) | (£85.00) |
| • removed damage charge (roof) | (£120.00) |
| • net damage charge (11 items) | £1,990.00 |
| • missing key | £250.00 |
| • missing service history | £270.00 |
| • total | £2,510.00 |

Unhappy with the above charges, amongst other things, Mr M complained to Vauxhall Finance.

Vauxhall Finance considered Mr M's complaint and agreed to accept from him the sum of £1,240.00 broken down as follows:

| | |
|---|---|
| • gross damage charge (13 items) | £2,195.00 |
| • removed damage charge (bonnet) | (£85.00) |
| • removed damage charge (roof) | (£120.00) |
| • net damage charge (11 items) | £1,990.00 |
| • 50% reduction of the above net damage charge | (£995.00) |
| • reduced net damage charge | £995.00 |
| • removed damage charge (wheel nsr) | (£80.00) |
| • removed damage charge (bumper rear) | (£195.00) |

- reduced net damage charge (9 items) £720.00
- missing key £250.00
- missing service history £270.00

- total £1,240.00

Unhappy with being invoiced £1,240.00 Mr M referred his complaint to our service. On doing so he accepted Vauxhall Finance's right to charge him £250.00 for a missing key but not the balance of £990.00.

Mr M's complaint was considered by one of our investigators who came to the view that Vauxhall Finance, having reduced the sum it was seeking from Mr M to £1,240.00 (from £2,510.00) need do nothing more.

Mr M responded to say he accepted Vauxhall Finance's right to charge him £270.00 for a missing service history but not its right to charge him £720.00 for damage. And because Mr M disagreed with Vauxhall Finance's right to charge him £720.00 for damage 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.

First, for the sake of clarity and for the avoidance of doubt, I would like to point out that Stellantis Financial Services UK Limited trading as Vauxhall Finance has confirmed that it's the respondent against which this complaint should be registered against with our service. It has also confirmed to our service that it fully understands that in the event Mr M accepts my findings it will be bound by/to those findings.

I've read the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point or particular piece of evidence, 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. Our rules allow me to do this, reflecting the fact that we are an informal free service set up as an alternative to the courts.

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.

Finally I would like to make it clear that I'm not considering in this decision any complaint Mr M might have about commission paid to the credit intermediary.

On signing the agreement Mr M accepted the following terms and conditions:

*"15.3. If you fail to keep the Vehicle in good repair and condition as required by this Agreement, you may have to compensate us and pay our reasonable costs incurred by us as a result.*

*15.6. The charges referred to in clauses 15.1. to 15.5. shall be made in accordance with our standard tariff from time to time, details of which are available on request. The costs may be varied by us from time to time, to cover any subsequent increases or decreases in related third party or internal costs. We will tell you before we make any changes.*

*20.1 You will only use the Vehicle in accordance with the manufacturer's instructions and all applicable laws and regulations. All risk in the Vehicle will pass to you on delivery and you will be responsible for any loss or damage to it even if it is not your fault. You will carry out any repairs and replace parts when necessary. All repairs and replacement parts will become part of the Vehicle.*

*20.2. 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, based on the agreed mileage limits outlined on page 1 of this Agreement."*

So with the above in mind I'm satisfied that on the car's return Vauxhall Finance had the right to charge, and Mr M had an obligation to pay, for any damage to the car deemed to be beyond fair wear and tear.

I will now turn to each damage charge that Mr M has disputed in light of the inspection report and the fair wear and tear guidelines issued by the British Vehicle rental and Leasing Association ("BVRLA"). The BVRLA guidelines are appropriate for me to have regards to in this case given that Mr M was supplied with a car that was nearly new and that it was to be returned after four years.

In essence Vauxhall Finance submits that it's entitled to charge Mr M for the following damage:

| | | | |
|---|---|---|---|
| • wheel osf | £80.00 | reduced to | £40.00 |
| • wing osf | £250.00 | reduced to | £125.00 |
| • bumper front | £220.00 | reduced to | £110.00 |
| • door nsf | £250.00 | reduced to | £125.00 |
| • wing nsr | £250.00 | reduced to | £125.00 |
| • door nsr | £250.00 | reduced to | £125.00 |
| • wheel osr | £80.00 | reduced to | £40.00 |
| • door osr | £250.00 | reduced to | £125.00 |
| • door osf | £85.00 | reduced to | £42.50 |
| • total | £1,715.00 | reduced to | £857.50 |
| • total | £1,715.00 | reduced to | £857.50 |
| • wheel nsr | £80.00 | reduced to | £40.00 credit |
| • bumper rear | £195.00 | reduced to | £97.50 credit |
| • total | £1,990.00 | reduced to | £720.00 |

*wheels osf/osr – scratched £160.00 reduced to £80.00*

In respect of tyres and wheels the BVRLA guidelines state:

*"Dents on wheel rims and wheel trims are not acceptable.*

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

*Any damage to the wheel spokes, wheel facia, or hub of the wheel/alloy is not acceptable…"*

I've looked at the inspection report photographs in support of these charges and I'm satisfied that they show scuffs in excess of 50mm on the total circumference of both wheels and damage on one of the facias. So taking everything into account I'm satisfied that this is damage that Vauxhall Finance can fairly and reasonably charge Mr M for.

*wing osf – scratched £250.00 reduced to £125.00 bumper front – scratched £220.00 reduced to £110.00 door osr – scratched £250.00 reduced to £125.00*

In respect of paintwork, vehicle body, bumpers and trim (scratches) the BVRLA guidelines state:

*"Surface scratches of 25mm or less where the primer or bare metal is not showing are acceptable provided they can be polished out. A maximum of four surface scratches on one panel is acceptable."*

I've looked at the inspection report photographs in support of these charges and I'm satisfied that they show scratches in excess of 25mm or scratches where the primer or bare metal is showing. So taking everything into account I'm satisfied that this is damage that Vauxhall Finance can fairly and reasonably charge Mr M for.

*door nsf – dented £250.00 reduced to £125.00 wing nsr - dented £250.00 reduced to £125.00 door nsr – dented £250.00 reduced to £125.00*

In respect of paintwork, vehicle body, bumpers and trim (dents) the BVRLA guidelines state:

*"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"*

I've looked at the inspection report photographs in support of these charges and I'm satisfied that they show dents in excess of 15mm. So taking everything into account I'm satisfied that this is damage that Vauxhall Finance can fairly and reasonably charge Mr M for.

*door osf – chipped £85.00 reduced to £42.50*

In respect of paintwork, vehicle body, bumpers and trim (paint chips) the BVRLA guidelines state:

*"Chips of 3mm or less in diameter are acceptable provided they are not rusted. A maximum of four chips on any panel, six chips per door edge and eight chips on any forward-facing panel is permitted."*

I've looked at the inspection report photograph in support of this charge and I'm satisfied that it shows a chip in excess of 3mm. So taking everything into account I'm satisfied that this is damage that Vauxhall Finance can fairly and reasonably charge Mr M for.

Having concluded that Vauxhall Finance is entitled to charge for all nine items of damage that it has, I've gone on to consider whether a sum of £1,715.00 (reduced to £857.50) for this damage is fair and reasonable.

While I appreciate that £857.50 is a lot of money, I don't find I've the grounds to say the individual charges are unfair. There's nothing in the agreement or the BVRLA guidance that says Vauxhall Finance can't charge what it would cost a manufacturer garage (for example) to rectify the damage. These charges seem to be in line with, or indeed cheaper than, that.

I think it's also worth pointing out that Vauxhall Finance has said the car achieved a sale price of £1,000 less than what would have been achieved (according to one or more trade guides) had there been no damage (deemed beyond fair wear and tear) to it, adding weight to my view that £857.50 is a fair sum for Mr M to be charged.

I note that Mr M makes reference to a damage charge matrix on Vauxhall Finance's website and that what he has been charged by Vauxhall Finance doesn't resemble that matrix. But I'm not persuaded that in light of the agreement terms and conditions (when read and considered together and in their entirety) that Vauxhall wasn't able to charge Mr M what it has.

I would also add that as well as reducing the nine charges from £1,715.00 to £857.50 Vauxhall Finance applied a further reduction of £137.50 bringing the total (net) charge down from £857.50 to £720.00, a reduction I'm not necessarily persuaded it needed to make.

*other matters*

Mr M submits that the damage that Vauxhall Finance has invoiced him for could have occurred during the longer than necessary trip he had to make return the car *"in extremely hazardous conditions"* or after it had been returned to Vauxhall Finance but before it was sold on by it.

Now I accept I can't say for certain that Mr M is wrong in his submission in this respect but on the balance of probabilities I'm simply not persuaded that this is more likely than not especially when consideration is given to how long the car was in Mr M's possession compared to how long it was in the possession of Vauxhall Finance.

I note that Mr M is unhappy with how the collection and inspection of the car was handled and submits that Vauxhall Finance *"breached several conditions on* [its] *website"* in respect of the same. But notwithstanding I'm not persuaded that the content of Vauxhall Finance's website places it under any contractual obligation I'm simply not persuaded that any failure on the part of Vauxhall Finance in its collection and inspection of the car has, in itself, caused Mr M a financial loss or a level of distress and inconvenience that would warrant me directing Vauxhall Finance to reduce the sum its seeking from Mr M any further.

Although it's not clear, it's my understanding that Mr M suggests that he should get credit for returning the car with less miles on the odometer than allowed for under the agreement. But the agreement makes no allowance for such a credit and I'm satisfied, based on what Mr M has said and submitted, that he entered into the agreement in the full knowledge of this fact.

Finally I note that Mr M states that he was never provided with a finance proposal report and was *"effectively signed up to* [Vauxhall Finance] *without of any real knowledge of who the finance company actually was…"*.

I accept, based on what both parties have said and submitted, that Mr M may not have been provided with a finance proposal form. But I need make no finding on this point because I'm simply not persuaded that such a failure is material to my consideration of this complaint. I would also add that I'm satisfied that although there might have been a delay in Mr M becoming aware with whom an application for finance had been submitted to, this fact would have been known to Mr M, or should have been known to Mr M, before he committed to the agreement (by signing it) given that the agreement is clearly headed "Vauxhall Finance…".

So while I sympathise with the position Mr M finds himself in I'm satisfied that Vauxhall Finance can fairly and reasonably seek payment of £720.00 from him.

**My final decision**

My final decision is I don't uphold this complaint. However, I would remind Stellantis Financial Services UK Limited trading as Vauxhall Finance of its regulatory obligations, in seeking payment of the sum of £720.00 from Mr M, to treat Mr M positively and with forbearance if it transpires that he is in financial difficulties.

My final decision concludes this service's consideration of this complaint, which means I'll not be engaging in any further consideration or discussion of the merits of it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 11 December 2024.

Peter Cook
**Ombudsman**