

Complaint

Mr B complains that Volkswagen Financial Services (UK) Limited (trading as “Audi” Financial Services) unfairly entered into a hire-purchase agreement with him. He’s said that the monthly payments to this agreement were unaffordable and he therefore shouldn’t have been lent to.

Background

In June 2021, Audi provided Mr B with finance for a used car. The purchase price of the vehicle was £44,504.00. Mr B didn’t pay a deposit and took out a 48-month personal contract purchase hire-purchase agreement with Audi for the entire amount of the vehicle.

The loan had interest charges of £13,212.54 and a £10 option to purchase fee. This meant that the total amount to be repaid of £57,766.54 was due to be repaid in 48 monthly instalments of £849.98 and one optional final repayment, of £16,967.50, which included the £10 option to purchase fee and which Mr B had to pay if he wanted to keep the vehicle.

In February 2024, Mr B returned the car and I understand that Audi cleared the balance that would have been owing and also removed any adverse information it reported to credit reference agencies.

In June 2024, Mr B complained that the agreement was unaffordable for him and so should never have been provided. Audi didn’t uphold the complaint. As far as it was concerned, its checks confirmed that the finance was affordable and so it was reasonable to lend.

Mr B’s complaint was considered by one of our investigators. He reached the conclusion that Audi hadn’t done anything wrong or treated Mr B unfairly. So he didn’t recommend that Mr B’s complaint should be upheld.

Mr B disagreed with our investigator and the complaint was passed to an ombudsman for a final decision.

My findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

We’ve explained how we handle complaints about irresponsible and unaffordable lending on our website. And I’ve used this approach to help me decide Mr B’s complaint.

Audi needed to make sure that it didn’t lend irresponsibly. In practice, what this means is that Audi needed to carry out proportionate checks to be able to understand whether any lending was sustainable for Mr B before providing it.

Our website sets out what we typically think about when deciding whether a lender’s checks were proportionate. Generally, we think it’s reasonable for a lender’s checks to be less

thorough – in terms of how much information it gathers and what it does to verify that information – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower's income was low, the amount lent was high, or the information the lender had – such as a significantly impaired credit history – suggested the lender needed to know more about a prospective borrower's ability to repay.

Having carefully thought about everything I've been provided with, I'm not upholding Mr B's complaint. I'd like to explain why in a little more detail.

Audi says it agreed to this application after Mr B provided details of his employment, a tax return and details of his residential status. It says it also carried out credit searches on Mr B which had shown that while he had some existing credit commitments these were being relatively well maintained. And when reasonable repayments to the amount owing as well as the monthly payments he declared for his rent and this agreement were deducted from his monthly income, Mr B had a reasonable amount left over to meet his living expenses.

On the other hand, Mr B says that he had a limited credit history and if Audi had requested further tax returns rather than just his most recent one, it would have seen his income was likely to be lower and the agreement was unaffordable for him.

I've thought about what Mr B and Audi have said.

The first thing for me to say is that much like our investigator, I don't think that the checks Audi carried out did go far enough. I don't think it was reasonable not to take steps to ascertain more about Mr B's living costs given Audi only appears to have considered what credit reference agencies said about the amount of funds going into Mr B's account in terms of his income and what may have been declared for rent, the amount of the monthly payments and how long Mr B was expected to make them for.

As Audi didn't carry out sufficient checks, I've gone on to decide what I think Audi is more likely than not to have found out had it obtained further information from Mr B. Bearing in mind, the length of time of the agreement and the amount of the monthly payment, I would have expected Audi to have had a reasonable understanding about Mr B's regular living expenses as well as his income and existing credit commitments.

The information Mr B has provided does appear to show that when his actual committed regular living expenses and the credit commitments on any credit search carried out were deducted from his monthly income, he did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

I note that Mr B believes that his account received more in funds at the time of his application because of payments from clients and his income was actually lower than what his tax return and the funds going into his bank account showed. He says that Audi would have seen this if it had asked for six months' worth of bank statements. However, there was no requirement for Audi to ask for any bank statements at all and certainly not six months' worth of them.

In any event, while Mr B now says that a lower income figure should have been taken into account in Audi's assessment, I do have to consider that this submission is being made in support of a claim for compensation. It's fair to say that at the time, at least, Mr B's submissions are more likely to have been made with a view to persuading Audi to lend to him rather than highlighting any unaffordability.

Indeed, Mr B provided a tax return. I can't see that he took any steps to make Audi aware that his income was lower than what could be discerned from the information he supplied. So while I've thought about what Mr B has said about his income, I don't think that it was unreasonable for Audi to proceed on the basis of the information that it was provided with.

For the sake of completeness I would also point out that even if I were to have upheld Mr B's complaint, I am unlikely to have made an award of compensation. I say this because Mr B says that he believes he should be refunded the payments he made less a reasonable amount for usage.

It's fair to say that Mr B was provided with a prestige branded car, which he had had the use of for approaching three years. It's also important to note that Mr B had a personal contract purchase ("PCP") style agreement and given the monthly payments on these types of arrangement are supposed to reflect depreciation and the cost of renting the car financed, I'm likely to have said that the monthly payment is likely to have been a starting point for assessing an amount for fair usage.

In reaching my conclusions, I've also considered whether the lending relationship between Audi and Mr B might have been unfair to Mr B under section 140A of the Consumer Credit Act 1974 ("CCA").

However, for the reasons I've explained, I don't think Audi irresponsibly lent to Mr B or otherwise treated him unfairly in relation to this matter. And I haven't seen anything to suggest that section 140A CCA or anything else would, given the facts of this complaint, lead to a different outcome here.

Overall and having carefully considered everything, while I don't think that Audi's checks before entering into this hire purchase agreement with Mr B did go far enough, I'm satisfied that carrying out reasonable and proportionate checks won't have stopped Audi from providing these funds, or entering into this agreement with him. I appreciate that this will be disappointing for Mr B. But I hope he'll understand the reasons for my decision and at least consider that his concerns have been listened to.

My final decision

My final decision is that I'm not upholding Mr B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 30 December 2024.

Jeshen Narayanan
Ombudsman