

The complaint

Mr D complains Volkswagen Financial Services (UK) Limited trading as Audi Financial Services (“AFS”) over charged him when he settled his hire purchase agreement early.

What happened

In October 2023 Mr D acquired a car financed through a hire purchase agreement with AFS.

Mr D said he was sold a financial product which would provide him with the benefit of two annual services, MOTs, roadside assistance and warranty. But he said the early repayment interest fees were not disclosed to him either over the phone or on email.

Mr D said he was subsequently charged with an early repayment fee, in accordance with the Consumer Credit Act 1974 (“CCA”) and the Consumer Credit (Early Settlement) Regulations 2004 (“CCESR”). He said the fee wasn’t adequately disclosed to him, constituting a mis-selling of the product. He complained to AFS.

In its final response AFS did not uphold Mr D’s complaint. It said the relevant law allowed a business to charge interest on the early settlement of such an agreement. In a follow-up email AFS said it can only be held liable to the terms and conditions that it provides. It said the concerns Mr D had raised would relate to the retailer, which is a separate business.

Mr D didn’t agree and brought his complaint to this service. He said he wasn’t given the necessary information to make an informed decision. He said he felt that during the sales process there was a clear lack of disclosure from the sales adviser and that this critical piece of information should have been disclosed. He said this breaches the principle of treating customers fairly.

Our investigator concluded that she couldn’t reasonably say the broker, and in turn, AFS had acted unfairly. Mr D wasn’t satisfied and asked for a decision from an ombudsman. He made some additional comments to which I have responded below where appropriate.

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 realise this will come as a disappointment to Mr D but having done so I agree with the conclusions reached by the investigator for the reasons I’ve outlined below.

I’ve seen that Mr D has made numerous points in support of his complaint. I’m not going to respond to every single point made by him. No discourtesy is meant by this instead I’ve focused on what I think is the crux of the complaint. Our rules allow me to do this and simply reflects the informal nature of our service. If there’s something I’ve not mentioned it isn’t because I’ve ignored it, I haven’t. I’m satisfied I don’t need to comment on every individual point to be able to reach what I think is the right outcome.

In considering what is fair and reasonable I need to have regard to the relevant law and

regulations, regulator's rules, guidance and standards, codes of practice and (where appropriate) what I consider having been good industry practice at the relevant time. Mr D's hire purchase agreement is a regulated consumer agreement and as such this service can consider complaints relating to it.

I've seen a copy of Mr D's hire purchase agreement which he signed on 31 October 2023. In signing the agreement Mr D agreed to be bound by its terms and conditions. The agreement is regulated by the CCA as is noted in Section 1. On Section 7 Early Repayment it says

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.

The CCESR tells a lender how to calculate the settlement figure when a customer requests to end a loan agreement early. While the CCESR isn't specifically mentioned in Section 7 of Mr D's agreement it is mentioned in Section 10. It says

- *10.3.2 a rebate calculated in line with the Consumer Credit (Rebate on Early Settlement) Regulations 2004*

The early repayment calculation isn't straightforward, and it uses a set formula which is detailed in the CCESR. And our investigator has set out the specific sections of the CCESR that allows ASF to charge 58 days interest when Mr D requested his settlement figure, as ASF also did in its final response. I've seen the settlement figures ASF has provided and I've not seen any evidence to doubt they haven't been calculated as per the formula set out in the CCESR.

Mr D said the early settlement 'fee' wasn't adequately disclosed to him during the sale of the financial product. He said if the broker had stated an early interest fee he would never have purchased the car with the product attached. The product were the additional services that came with the hire purchase agreement. He said the lack of disclosure was unfair.

Section 56 of the Consumer Credit Act 1974 (CCA) says that a finance provider can be held responsible for any 'antecedent negotiations' carried out by the credit broker. By this I mean what was said or done before the credit agreement was entered by the customer. It explains that finance providers are liable for what is said by a supplier before the agreement is signed – where there's a debtor-creditor-supplier agreement. I must take account of relevant law when deciding and in this case Section 56 does apply. In Mr D's case the dealership acted as ASF's agent with the hire purchase agreement.

I can see from emails exchanged prior to signing the agreement that Mr D discussed early settlement with the broker. The broker provided an estimate of the settlement calculation, which I can see is less than the final calculation provided by ASF. The broker then says:

"This is based on my calculations. The finance company would be able to give this exactly but I project it to be around that figure."

Mr D has said he believes the 'fee' was not adequately disclosed to him at the point of sale, constituting a mis-selling of the financial product. He said the salesperson should have disclosed this critical piece of information and it wasn't. He said he feels this breaches the principle of treating customers fairly. I do understand Mr D's concern and frustration as the figure provided by the finance company is more than that provided by the broker.

At the time Mr D signed his hire purchase agreement, he also signed a pre-contractual checklist, a copy of which I've seen. It says:

"I confirm I have read or have been provided with ...

- An explanation of how interest is charged should I wish to settle my finance agreement early.*
- An opportunity to ask questions about the finance agreement, together with the contact details of Audi Financial Services where further details may be obtained and questions directed."*

I'm satisfied the broker directed Mr D to the finance company for an accurate figure and Mr D confirmed that he was provided the contact details of ASF where he might direct any questions. So I'm not persuaded Mr D was mis-sold the product.

In his response to our investigator Mr D provided another email to the broker where he says he asked that there is no additional interest payment upon early settlement and was told in clear terms that there is no penalty for doing so. He said this email states he only wanted to proceed with the finance option on that basis.

It's important to note that the settlement calculations include the interest payable to settle the agreement not penalty fees. The email provided talks about additional charges and penalty fees but not interest due.

With respect to the different figures quoted Mr D said the investigator's conclusion that the broker directed him to obtain an exact figure from the finance provider does not address the potential impact of this significant discrepancy on his financial decisions. He said the investigator's decision did not take into account whether the checklist alone was enough to ensure that he was adequately informed about how interest would be charged in the event of early settlement and the complexity of these financial terms and their impact on his decision-making process should have been more thoroughly examined.

I'm satisfied that the check list provided clear statements to ensure Mr D had an understanding of the agreement. And I'm persuaded Mr D was directed to the finance company for a more accurate figure and confirmed he'd been provided with contact details where he could direct further questions.

I'm sympathetic to the fact this is not the news Mr D would like but I'm satisfied ASF hasn't done anything wrong, so I won't be asking it to do anything further.

My final decision

My final decision is I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 14 July 2025.

Maxine Sutton
Ombudsman