DRN-5649383

The complaint

Mr G complains about the sale of a car finance agreement he took out with Volvo Car Financial Services UK Limited ('VF').

What happened

The parties are familiar with the background details of this complaint – so I will briefly summarise them here. It reflects my role resolving disputes with minimum formality.

In June 2024 Mr G took out a conditional sale agreement with VF for a used car. However, he requested to early settle the agreement soon afterward and VF provided an early settlement figure on 1 August 2024.

Mr G paid the early settlement figure, less a sum he disputed. He says this sum is around £500 and represents 58 days of additional interest (on top of interest incurred to date) which he was not aware VF would charge him. Had he been, he would never have taken out the finance agreement.

Mr G complained to VF but it did not uphold it. It explained it had properly calculated his early settlement figure in accordance with the Consumer Credit Act 1974 ('CCA') and Regulations governing early settlement. It maintained a marker on Mr G's credit file showing he had outstanding interest on the agreement.

The complaint came to this service and our investigator did not uphold it. So the matter has been referred to me for a final decision.

Mr G says he has now settled the outstanding interest charge under protest.

I issued a provisional decision on this matter as follows:

What I've provisionally 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.

While I might not comment on everything (only what I consider key) this is not meant as a discourtesy to either party – it reflects my role resolving disputes with minimum formality.

In considering what is fair and reasonable, I need to have regard to the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and (where appropriate) what I consider to have been good industry practice at the relevant time. This includes:

- *The FCA Principles for Businesses (PRIN) which states (amongst other things) that:*
    - *'A firm must pay due regard to the interests of its customers and treat them fairly'*

  - *'A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading'.*

- *The FCA Consumer Credit Sourcebook (CONC), in particular:*

  - *CONC 3.3.1 which states that a firm must ensure that a communication or financial promotion is:*

    - *'clear, fair and not misleading';*
    - *'is balanced and, in particular, does not emphasise any potential benefits of a product or service without also giving a fair and prominent indication of any relevant risks'; and*
    - *'does not disguise, omit, diminish or obscure important information, statements or warnings'*

  - *CONC 3.3.7 which states that:*

    - *'When communicating information, a firm should consider whether omission of any relevant fact will result in information given to the customer being insufficient, unclear, unfair or misleading'*

- *The FCA's Consumer Duty, which sets high standards of consumer protection across financial services and (amongst other things) requires firms such as VF to give customers the information they need, at the right time, and in a way they can understand – so that they can make informed financial decisions*

The agreement in this case is a regulated consumer credit agreement. As such, this service is able to consider complaints relating to it. Under section 56 of the CCA I am also able to hold VF liable for statements made by the dealership ('the broker') in respect of its role in arranging the finance for Mr G.

This complaint is not about the way early settlement has been calculated

In its submissions to this service VF's focus has been about the way the early settlement figure has been calculated. However, I don't think this is the heart of Mr G's complaint. I can see from VF's call notes, and the transcript of a particular call to it (which appears to be from 13 August 2024) that he clarified this point to it too. It appears VF then issued a follow up Final Response Letter (which I don't appear to have a copy of) in which it appears to have rejected his complaint on the basis that (despite not containing the information about early settlement charges) the credit agreement says it is regulated by the CCA. It also appears to have paid him £50 compensation for general customer service issues in getting an explanation around the early settlement charges.

In light of the above, my focus here is not on the manner of calculation. I don't think that is in dispute here. Instead I will be focusing on Mr G's key complaint point in respect of not being properly informed about the consequences of early settlement at the time he was sold the finance agreement in June 2024. And that in his particular circumstances, he says this has meant he acted to his detriment.

The evidence available – Mr G's testimony is strong and supported by his actions

One of the key issues in a case like this, is that the conversation between Mr G and the broker was not apparently recorded. So I have to base my findings on what I consider most likely - noting the evidence that is available.

My starting point is Mr G's testimony is both credible, detailed and consistent as to what he was informed when he took out the finance and why it was important to him. Furthermore, his resulting actions are consistent in backing up this testimony.

Was early settlement important to Mr G at the time of sale?

I don't think Mr G went in to the dealer necessarily looking to take out a finance agreement. His testimony is that he had the money to pay for the car without it, and only took it out as:

- *the broker offered him an extra year of warranty if the car was taken via finance (pushing the warranty from a one to two year term);*
- *the broker told him (on enquiry) that he could settle the agreement early and only pay the interest incurred to date.*

I think what Mr G says is credible. Because, consistent with this testimony he went to settle the agreement very soon after taking it out. He says he initially requested a settlement figure on 29th July 2024 – which is just a few weeks after taking out the finance and after only having made one scheduled repayment.

It is unusual for a person to take out a finance agreement and settle it almost straight away. Because Mr G had means to pay for the car upfront – and decided to take the finance and settle it very shortly after, it strongly suggests he did this not because he wanted to take finance to spread out car payments over a longer period (a key benefit of a finance deal) but because of the warranty benefit he has described.

It follows – that taking out finance for an extra year of warranty is only a benefit if you pay little interest in doing so. Therefore, I consider it likely that at the time of sale the ability to early settle the agreement without additional charges was important to Mr G.

Is it likely Mr G was informed he could settle the agreement early by VF or the broker?

Firstly, I note that the VF pre-sale documents include a section called 'How does it work?' and proximate to a section called 'Features and Benefits' and under a heading 'Is this type of agreement covered by the CCA?' there is a statement in bold as follows:

> ***'You can settle the outstanding balance early at any time during the agreement'****.*

So my starting point is that VF did inform Mr G that he could settle the agreement early in the documentation – and presented this in such a way that it was reasonably seen as a benefit / additional flexibility.

I know the broker has said the salesperson has 'no recollection' of a conversation about settling the agreement early. However, I think that it was likely discussed in the particular circumstances here too. I say this because:

- *I am persuaded the ability to early settle the agreement became important to Mr G in the particular circumstances here (noting my rationale for that as stated above);*
- *the pre-sale documentation makes the ability to early settle the balance at any time a key feature of the finance arrangement – and hence a likely talking point; and*
- *Mr G's credible testimony is that he discussed early settlement with the broker.*

Was Mr G properly informed about the cost of early settlement by VF or the broker?

I am not persuaded Mr G was properly informed about the cost of early settlement here. Namely that an additional 58 days of interest would be charged on top of interest incurred to date if he did so. I say this for the following reasons in particular:

- *Neither the pre-contractual documentation or the finance agreement explain this;*
- *the salesperson's testimony does not include any reference to this;*
- *Mr G's testimony on the matter is credible– he says the salesperson led him to believe that he would only be liable for interest up to the point of settlement, with no mention of additional charges;*
- *Mr G's actions in ringing VF to complain about the matter shortly after learning of these charges is consistent with his testimony and the actions of someone who didn't expect these; and*
- *had these charges been flagged at the time it seems the benefit of Mr G taking out the finance for the extra warranty coverage would be questionable.*

From what I have seen of VF's system notes its position appears to be that in stating the finance is regulated by the CCA, it has provided Mr G with sufficient information to flag the early settlement charges in question. However, I don't consider that to be the case in the circumstances here – particularly noting the provisions in CONC and PRIN I mentioned earlier in respect of providing information to Mr G which is clear, fair and not misleading. And not omitting important information. While also noting that VF should have ensured that promotional material regarding the benefits of its product (like the ability to early settle in this case) are balanced by also providing information about relevant risks (in this case additional interest charges for settling early).

Considering the requirements as set out in CONC or PRIN I don't consider VF (or its broker) treated Mr G fairly or reasonably in the circumstances. I consider it failed to adequately disclose the charges applicable on early settlement – particularly noting that the ability to early settle was promoted as a benefit / feature of note in its pre-contractual documents. And I uphold this case for this reason. However, it is also worth adding that the Consumer Duty requires an even higher expectation on VF that its communications will enable Mr G to make an informed decision about its financial product. And here I don't see persuasive evidence that it gave him clear information, at the right time, about the implications of early settlement, so that he could make an informed decision about whether to take out the finance.

Putting things right

In line with the approach to misrepresentation more generally, the fair outcome here is not to give Mr G the benefit of the false or misleading information he relied on. But to put him in a position he would have been in were it not for the error by VF.

I think Mr G should fairly be put in the position had he been properly informed about the cost of early settlement. Based on his testimony I consider this means he would likely not have entered the finance agreement at all and paid for the car in cash.

Therefore, I consider it fair VF refunds Mr G all the interest charges he paid it in respect of the finance agreement (both relating to the monthly rental and early settlement charge) with out of pocket interest on these refunds from the date of payment to the date of settlement.

VF should ensure Mr G has no further liability under the finance agreement and remove the record of it from Mr G's credit file – ensuring that no adverse data remains.

By the time my final decision is produced Mr G will likely be in the very early phase of the second year of his warranty. However, as part of the agreed settlement – VF can fairly make arrangements with the broker to cancel any remaining warranty (as Mr G would not have benefited from the second year had he not entered the finance agreement). If VF chooses to effect this it should inform Mr G at the point of settlement to confirm cancellation of said extended warranty.

VF has already compensated Mr G £50 for some customer service issues he had in apparently trying to communicate with it over his complaint about the early settlement charges. However, I think other compensation is due here.

I am persuaded Mr G not being adequately informed about the charges on early settlement has led him to hassle and inconvenience he wouldn't have experienced otherwise. Both in terms of taking out a finance agreement he would not have, and in having to dispute unexpected charges on early settlement. He has also clearly suffered from distress caused by this experience, particularly the surprise of the extra charges and the presence of alerts on his credit file during a period of dispute over repayment. This information did not only show the early settlement interest Mr G owed VF but an alert concerning all of the outstanding interest on the agreement – making it more unsettling and upsetting than it would have been otherwise.

Deciding compensation for distress and inconvenience is not a science but I have had regard to the scale of awards detailed on our website. In doing so I note that VF's error has caused Mr G more than the frustration and annoyance he might have expected in day to day life and the impact has been more than minimal. In the circumstances I consider an award of £200 to be fair and reasonable here.

My provisional decision

I uphold this complaint and direct Volvo Car Financial Services UK Limited to:

- *Refund Mr G all interest he has paid in respect of the finance agreement;*
- *pay 8% simple yearly interest on all refunds from the date of payment to the date of settlement;*
- *ensure Mr G has no further liability under the finance agreement and remove any record of it from his credit file (including any adverse information); and*
- *pay Mr G £200 compensation.*

As part of this settlement VF is able to liaise with the broker in order to cancel the remaining warranty on the car in accordance with my comments above.

If VF considers it should deduct tax from my interest award it should provide Mr G with a certificate of tax deduction so he may claim a refund, if appropriate.

Mr G responded and accepted the decision. He wishes the matter to be resolved soon.

VF did not accept the decision. In summary, it says:

- As Mr G accepts the salesperson told him that he would only be liable for interest up to the point of settlement – this shows he was fully aware that interest would be charged for early settlement.
- Refunding Mr G all the interest he has paid is not the correct remedy here and is not supported by explanations provided in the decision. The correct remedy is to refund Mr G any *'additional interest charged (i.e. the 58 days interest which is the basis of his complaint)*'.

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.

Overall, neither party has given me cause to change my provisional findings – which I still consider fair for the reasons already given (above). These findings now form my final decision alongside the points below:

Respectfully I disagree with VF's interpretation of what Mr G was reasonably aware of here. Based on his testimony I accepted that he was aware he would be charged *some* interest. However, that does not fairly mean he was reasonably aware of the additional 58 days interest for early settlement over and above the amount of interest that would have to be paid leading up to the point of early settlement. I don't think the average consumer would know about it without it being explained. Particularly in the circumstances here.

Secondly, I am satisfied that refunding all interest is a correct and fair remedy here. The usual remedy for misrepresentation is not to make the misrepresentation true (which here would be allowing Mr G to have an additional year of warranty – and charging Mr G only the monthly interest up to the point of early settlement without the 58 days applied via the early settlement calculations). I am satisfied that had the additional interest charged on early settlement been adequately explained to Mr G then he likely would not have considered it worthwhile entering the agreement for the extra year of warranty at all. Hence, not entering the agreement means he would not have paid any interest related to the finance – but he also would not have benefited from an extra year of warranty. VF can see that I have made provision for reducing the term of Mr G's warranty in my provisional findings too – which I consider fair and reasonable.

I hope my decision resolves matters for Mr G – I know he has been frustrated waiting for things to be settled. I note he recently mentioned that despite paying the outstanding interest charge in full (under protest) and clearing the account while this dispute was with this service VF has still not processed this correctly and failed to amend his credit file or release the restriction on the car in any event. Mr G indicates VF should have taken these actions regardless of the complaint he has with this service – as he had paid everything off. My role here is to deal with the complaint brought to this service about the mis-sale of the credit agreement and a fair remedy flowing from that so I am not looking into these latter events which occurred while the matter has been with this service. But Mr G might be able to complain about this separately.

Putting things right

See below. For clarity, in ensuring that Mr G has no further liability under the finance agreement VF should ensure that (if the capital balance has been paid in full – which it appears to have been here) it removes any restrictions it has imposed in respect of the car in relation to the finance agreement.

My final decision

I uphold this complaint and direct Volvo Car Financial Services UK Limited to:

- Refund Mr G all interest he has paid in respect of the finance agreement;
- pay 8% simple yearly interest on all refunds from the date of payment to the date of settlement;
- ensure Mr G has no further liability under the finance agreement and remove any record of it from his credit file (including any adverse information); and

- pay Mr G £200 compensation.

As part of this settlement VF is able to liaise with the broker in order to cancel the remaining warranty on the car in accordance with my comments above.

If VF considers it should deduct tax from my interest award it should provide Mr G with a certificate of tax deduction so he may claim a refund, if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 18 August 2025.

Mark Lancod
Ombudsman