

The complaint

Mrs H complains about the way that Volkswagen Financial Services (UK) Limited, trading as Volkswagen Finance, has dealt with a charging order that it registered on her property. Mrs H is being helped with her complaint by a representative.

What happened

The details of this complaint are well known to both parties and have been set out by the investigator - so I won't repeat them again here. Instead, I'll focus on giving the reasons for my 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.

Having done so, I agree with the conclusions reached by the investigator for these reasons:

- a used car was supplied to Mrs H under a hire purchase agreement with Volkswagen Finance in August 2005 but she says that she returned the car about a year later because she was moving overseas but couldn't provide a forwarding address;
- the car was sold but there was an outstanding balance of £4,021 on Mrs H's account which couldn't be recovered from her so the debt was transferred to a third party and a charging order was registered over Mrs H's property for £4,980.18;
- I've seen no evidence to show that the charging order was registered incorrectly or that Volkswagen Finance or the third party acted incorrectly in relation to it;
- the charging order was still registered in 2019 when Mrs H, who had returned from overseas, applied for a mortgage;
- she and her representative contacted Volkswagen Finance and the third party about the charging order – and a payment of £4,980.18 was made in September 2019 to discharge the order and the charging order was removed before the end of that month – which was the deadline that the third party says that Mrs H and her representative had given for them to secure the mortgage;
- Volkswagen Finance accepts that Mrs H and her representative made multiple calls to it and were given incorrect information – it apologised for that and offered Mrs H £200 compensation;
- Mrs H says that the mortgage deadline was missed as a direct result of Volkswagen Finance's and the third party's incompetence which has cost her an additional £1,728 which she says Volkswagen Finance should reimburse to her with £500 to compensate her and her representative for their time, stress and anxiety – and her representative has provided detailed information about what he says are the failings of both Volkswagen Finance relating to the charging order and a subject access request – and he says that the compensation should be at least £1,000;

- I consider it to be more likely than not based on the evidence that I've seen that the charging order was removed before the end of September 2019 and I'm not persuaded that there's enough evidence to show that Mrs H's mortgage application failed solely and exclusively because of a failure to remove the charging order by that time;
- I understand that the charging order was registered in 2010 so don't consider it to be unreasonable that there was a delay in Volkswagen Finance being able to provide information about it and it accepts that it provided incorrect information to Mrs H;
- both Volkswagen Finance and the third party have explained why the order was registered in the amount of £4,980.18 and I'm not persuaded that there's enough evidence to show that an incorrect amount was paid to discharge the order;
- Volkswagen Finance provided a detailed response to Mrs H's subject access request and, though there may have been some mistakes in the information that it provided, I'm not persuaded that those mistakes justify an award of compensation in these circumstances;
- I sympathise with Mrs H for the difficulties that she's experienced – but I'm only able to consider the impact that these events have had on her (and not the impact on her representative) – and I consider that Volkswagen Finance's offer to pay her £200 compensation is fair and reasonable in these circumstances;
- I'm not persuaded that a higher award of compensation is justified by these events and, although it's clear that Mrs H and her representative have spent a considerable amount of time dealing with Volkswagen Finance, I consider that the charging order was registered correctly when Mrs H ended the hire purchase agreement with an outstanding balance which wasn't repaid until September 2019 when the charging order was removed; and
- I don't consider that it would be fair or reasonable for me to require Volkswagen Finance to pay to Mrs H the £500 compensation that she claimed in her complaint form or the £1,000 compensation that her representative has requested – or to take any other action in response to her complaint (other than to pay her the £200 compensation that it's offered to her, if it hasn't already done so).

My final decision

My decision is that, if it hasn't already done so, Volkswagen Financial Services (UK) Limited, trading as Volkswagen Finance, should pay to Mrs H the £200 compensation that it has offered to her.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 3 November 2020.

Jarrold Hastings
Ombudsman