

The complaint

Mr D complains that Volkswagen Financial Services (UK) Limited (VFS) repossessed a car without due process.

What happened

In September 2018 Mr D acquired a car funded by a hire purchase agreement. This was repayable in monthly instalments of £285.78 over a period of some 60 months. Only two payments were made. Mr D says the car was acquired for his business partner who agreed to take over responsibility for the payments. Mr D says he phoned VFS and provided her bank details.

As the payments had stopped VFS wrote to Mr D on four occasions beginning on 12 December 2018 and it then issued a default notice on 8 March 2019. It then contacted Mr D by phone, but he was unable to pass the security questions. There followed a series of email exchanges between Mr D and VFS with Mr D trying to find out what the issue was and VFS being unable to disclose personal information without him clearing security.

Mr D made a subject access request (SAR) on 14 May, but VFS needed him to clear security before it could issue the information. However, it suspected further action on the account while the SAR was completed. It asked Mr D for a signed letter so it could match his signature. On 21 May D agreed to this, but VFS says it hadn't received one by 13 June and it terminated the agreement the following day.

On 17 June Mr D called VFS and passed the security questions. He explained the car was for his business partner and he didn't use the bank account from which the payments were taken and he believed his business partner had taken over responsibility for them.

VFS rejected Mr D's complaint and so he brought the matter to this service. It was considered by one of our investigators who didn't recommend it be upheld. Mr D said the agreement had been mis-sold. He thought he had been misadvised by the sales rep and he should have been given a finance agreement suitable for business use.

He thought VFS should have done more to ensure he was aware of the problem. He said he had tried to find out what the issue was, but the bank had put obstacles in his way with unnecessary security questions. He thought he had provided enough information for his identity to be established. He had two other agreements with VFS and he had three bank accounts and this contributed to him not being aware of the problem.

He has also expressed his concerns about the handling of the matter by VFS and its complaints handling process.

Our investigator concluded that VFS hadn't done anything wrong and it had taken reasonable steps to contact Mr D. He didn't agree and asked that his complaint be referred to an ombudsman.

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.

Firstly, I should make it clear that the role of the Financial Ombudsman Service is to resolve individual complaints and to award redress where appropriate. I do not perform the role of the industry regulator and I do not have the power to make rules for financial businesses or to punish them.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point raised by Mr D or VFS, it's not because I've failed to take it on board, but because I don't think I need to comment on it in order to reach what I think is the right outcome. While I have some sympathy with Mr D I do not consider I can uphold his complaint. I will explain why.

On the matter of mis-selling I have seen nothing to show that this occurred. The agreement is in Mr D's name and the associated paperwork show that he took the agreement out in his personal capacity. If he thought it was unsuitable for him I think he could have raised that concern at the time. I have some concern that he signed an agreement which required him to keep the car in his possession, but he says it was for his partner's use. Even so I don't think that affects my decision.

Mr D says he told VFS that it should change the bank account from which it collected the payment to that of his partner. It is normal for banks and finance houses to require that payment is made by the party named on the agreement and so I find it unusual that it would accept a change in account by a phone call.

I am satisfied that the letters and notifications issued to Mr D were sent to the correct address. I cannot say why Mr D didn't receive these, but VFS discharged its responsibilities in endeavouring to make contact with him.

It followed these up with a phone calls and it is unfortunate that Mr D was unable to pass security. I appreciate he found this frustrating, but the bank has a duty of care to its customers and it cannot release information without being satisfied it is dealing with the account holder. I note it asked for a signed letter and only instigated termination proceedings some two weeks later after that wasn't received.

I understand that Mr D wasn't aware that payments were not being made from his bank account, but it is reasonable to expect him to have had some knowledge of what payments were going out over a period of some six months. I also think it is not unreasonable to expect him to have been able to identify the agreement and the car registration for a recent purchase when it came to satisfying VFS's security questions.

I also note that the letters and notifications issued by the bank were sent to the correct address and it is not clear why Mr D didn't receive these. One going astray or unnoticed might be understandable, but not multiple letters. As such, I cannot hold the bank responsible for non-receipt.

Overall, I consider VFS to have taken fair and reasonable steps to notify Mr D that he had missed payments and then to terminate the agreement and I do not consider it did anything wrong in its handling of this matter.

My final decision

My final decision is that I do not 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 15 February 2021.

Ivor Graham
Ombudsman