

The complaint

Mr P is unhappy with how PSA Finance UK Limited dealt with his request for assistance after he fell into financial difficulties due to the coronavirus (Covid-19) pandemic.

What happened

On 12 June 2019, Mr P, a self-employed driving instructor, entered into two hire agreements with PSA. For Agreement 1, Mr P paid an initial rental of £976.32 and an initial service charge payment of £153.75. This was followed by 23 monthly rental payments of £325.44 and 23 monthly service charge payments of £51.25.

For Agreement 2, Mr P paid an initial rental of £788.15 and an initial service charge payment of £189.79. This was followed by 23 monthly rental payments of £262.75 and 23 monthly service charge payments of £29.93. The service charge payments for both Agreement 1 and Agreement 2 were to cover road tax payments and other servicing related assistance.

On 9 April 2020, Mr P contacted PSA as his income had been affected by the Covid-19 pandemic. PSA asked him to complete financial assistance forms through their online portal, which Mr P did. And PSA said they'd contact Mr P by email or phone, once his application had been assessed, to let him know the outcome. Mr P chased PSA for an update in late April 2020 and was told that PSA were dealing with a large number of applications, and things were taking longer than expected.

On 1 May 2020, PSA uploaded documents to the portal, explaining that Mr P had been granted a three-month payment deferral (also known as a payment holiday) on both agreements. PSA said that the monthly rental payments wouldn't need to be paid during the deferral period, but the service charges would. PSA also said that, at the end of the deferral period, the rental payment and service charge for Agreement 1 would increase to a total of £394.91, and the rental payment and service charge for Agreement 2 would increase to a total of £325.87.

On 19 May 2020, PSA sent Mr P an arrears letter, because the service charge payments hadn't been paid. Mr P contacted PSA about this letter on 27 May 2020. And he's said that this was the first time PSA made him aware of the letters they'd uploaded to the portal on 1 May 2020. Mr P complained to PSA about this, but PSA didn't think they'd done anything wrong. So, he brought his complaint to us for investigation.

Our investigator said that PSA hadn't treated Mr P fairly. While he thought they'd acted reasonably by offering Mr P a payment deferral, he didn't think it was fair they'd uploaded the terms of this to the portal, when they said they'd contact Mr P by phone or email about it, or that they didn't give Mr P the opportunity to accept the alteration to the terms of the agreements.

The investigator said that Mr P was forced to accept a change to the agreements which meant he kept the cars longer than originally expected, and he had to pay more overall for the cars. He said that, in total, Mr P paid an additional £720.02 than he otherwise would've done under the original agreements. But he also said that Mr P had the benefit of the cars

for an additional three months, which he thought Mr P should pay for. So, he didn't think that PSA needed to repay the additional £720.02. And, because the service charges covered road tax payments and other servicing related assistance, which Mr P had the benefit of, the investigator thought it was fair that Mr P also made these payments.

But the investigator said that the information PSA had given Mr P was unclear and was not provided by the method PSA said it would. And Mr P was also impacted by PSA taking action to enforce changes to the agreements without Mr P having any say in the matter, at a time when he was struggling financially due to the Covid-19 pandemic. So, he thought PSA should pay Mr P £250 to recognise the impact this had on Mr P, as well as removing any adverse information from his credit file.

Mr P didn't agree with the investigator. He said that he didn't use the cars during the first lockdown, as he had no work. So, he doesn't think it's fair that he's had to pay an additional £720.02. Mr P also said that he didn't benefit from any additional servicing for the additional three-months he had the cars, so he thinks he should only pay for the road tax element of the service charge for this period. Mr P also provided details of his bank account in March 2020 and has said that it would've been cheaper for him to make the scheduled payments from his overdraft than to have extended the agreements by three-months.

Because Mr P didn't agree with the investigator, this matter has been passed to me to make a final 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've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Mr P was supplied with two cars under hire agreements. These are regulated consumer credit agreements which means we're able to look into complaints about them.

The basic facts of these cases aren't in dispute, and PSA have acknowledged that they could've done better. Because of this, my decision will concentrate on what is a fair remedy given the facts and circumstances.

The Financial Conduct Authority (FCA) issued temporary guidance, that came into effect on 27 April 2020, about customers who were faced with payment difficulties as a result of Covid-19. This guidance says a firm providing motor finance agreements should grant a payment deferral for *“3 months unless the firm determines (acting reasonably) that it is obviously not in the customer's interest to do so.”* And the Consumer Credit Sourcebook (CONC) 7.3.4 states that *“a firm must treat customers in default or in arrears difficulties with forbearance and due consideration.”*

But this guidance didn't apply to business agreements. So, while PSA provided Mr P with a payment deferral on both agreements, this wasn't something they were required to do.

PSA didn't tell Mr P about the payment deferral by the method they told him they would – email or phone – which meant that he missed seeing this documentation for almost a month. But, even if Mr P had signed onto the portal and seen the documentation, he wasn't given the opportunity to accept or reject the terms of the payment deferral before they were applied to his agreements.

So, I've considered what Mr P would most likely have done had he had this opportunity. While Mr P had access to an overdraft which could've been used to make the payments; when Mr P became aware of the terms of the payment deferral, he didn't challenge these terms and offer to make any missed payments (through his overdraft) at that point. So, because of this, I don't think it was likely he would've rejected the payment deferral had he been given the opportunity to do so. I think it's more likely that, because of the uncertainty of the pandemic and government imposed lockdowns, Mr P would've kept his overdraft facility in case it was needed in the future.

Mr P has also said that the amount he paid PSA as a result of the payment deferral was more than it would've cost him had he used his overdraft initially. While I don't doubt this was the case, had he not taken the payment deferral then the cars would've needed to be returned three-months earlier than they actually were. And, as Mr P used these cars for his business, he would've needed to finance replacement cars three-months earlier.

Assuming that Mr P would've paid something similar to refinance replacement cars to what the original agreements cost him over the first three-months with initial and ongoing rental payments, and comparing this to what Mr P additionally paid as a result of the payment deferral and the extension of the agreements by three months; Mr P paid over £2,000 less than what he otherwise could've done. So, I don't think he was financially disadvantaged by the payment deferral and the three-month extension to the agreements.

Mr P has also said that he didn't fully benefit from the service change for the three-month extension to the agreements. So, he only thinks that the road tax element of this should be paid. While the cars weren't serviced during this period, it's my understanding that the service charge also covered items such as the clutch, brake pads and discs, bulbs, wiper blades and tyres. And, while none of these items needed replacement, they were covered if any replacement was necessary. For the same reasons I wouldn't say that Mr P should be refunded his annual car insurance premiums if he didn't make a claim, I don't think the service charge should be refunded just because Mr P didn't need to claim against it – he was still provided with the cover he was paying for.

Putting things right

As I don't think that PSA acted reasonably with how they communicated with Mr P about the payment deferral, or by not giving him the opportunity to decline the amended terms of the agreements; I'm in agreement with the investigator that PSA should compensate him for this.

For the reasons stated above, I don't think that Mr P should be refunded with the additional payments he made to the agreements, including the service charge. But he was impacted by PSA enforcing the changes to the agreement at a time when he was struggling financially as a result of the Covid-19 pandemic. Because of this, I'm satisfied that the £250 recommended by the investigator is reasonable in the circumstances and is in line with what I would've directed.

So, PSA should pay Mr P £250 in recognition of the distress and inconvenience caused by their actions. They should also remove any adverse information relating to the payment deferral from Mr P's credit file.

My final decision

For the reasons explained, I uphold Mr P's complaint and PSA Finance UK Limited must follow my directions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 27 January 2022.

Andrew Burford
Ombudsman