

The complaint

Ms W is unhappy with how Volkswagen Financial Services (UK) Limited trading as Audi Financial Services ('VWFS') treated her when she was experiencing financial difficulty.

What happened

In February 2017 Ms W acquired a new car. The car cost £28,306 and Ms W paid a deposit of £4,276. The rest of the balance was funded with a hire purchase agreement provided by VWFS. The agreement was over 48 months, with repayments of £341.45 a month and a final payment of £12,160 if Ms W wanted to keep the car at the end of the term.

Unfortunately, Ms W lost her job some time later. It appears a private insurance policy paid out enough for her to cover the repayments for around a year, but in March 2020 Ms W says she realised she wouldn't be able to make the full payments moving forward and called VWFS to discuss things.

VWFS said Ms W wanted to keep the car and pay £85 per month. VWFS said it explained to Ms W that she could voluntarily terminate ('VT') the agreement with a £0 shortfall due, if she paid for any charges after the car was inspected. It also said it explained she could part exchange the car with a dealer. It said it could discuss a repayment plan if she went into arrears, but this would affect Ms W's credit score.

Ms W called VWFS again later in March 2020. VWFS said she wanted to keep the car and asked for more details on reducing her repayments. Around this time Ms W got in touch with our service about the complaint.

Towards the end of March 2020 Ms W submitted a form to VWFS about financial difficulties during COVID-19. VWFS says it put a COVID marker on her account meaning no negative information was reported to credit references agencies in April, May or June 2020.

In April 2020 Ms W asked VWFS if she could pay £80 towards her agreement. She emailed VWFS and said she was unhappy with an email response she received and wanted guidance on what to do. She said she couldn't get through on the phone and wanted to discuss a repayment plan and breathing space for her finances.

VWFS responded around a week later. It said their phone lines were open. It explained Ms W was in arrears from her April payment. It said it couldn't agree deferred payments and it didn't think a payment holiday was appropriate due to it impacting the agreement. It asked for some more details about Ms W's finances and explained it was taking longer to respond than normal.

At the end of April 2020, VWFS emailed Ms W and said it was now offering payment deferrals and asked her to complete a form. Ms W submitted this a few days later. She also asked VWFS to call her to discuss this.

Later in May 2020 VWFS said it didn't think a payment deferral was suitable due to the arrears on the account. Ms W says she called VWFS on two days to discuss but couldn't get

through. She asked them to call her. VWFS says it called Ms W to discuss this at the end of May but couldn't get through. It called again at the beginning of June but again she didn't pick up.

Ms W returned the calls but says she couldn't get through. She emailed and asked VWFS to call her at a specific time and day.

VWFS emailed a few days later and said it couldn't arrange a call back due to the volume of calls it was getting. It gave its opening hours and asked her to call back or explained it could help via email. Ms W responded and said she didn't think email was suitable to discuss things and asked VWFS to put her account on hold.

VWFS called Ms W at the start of July to discuss this and she told it she was busy and asked for a call back later.

In August 2020 VWFS emailed Ms W and said it was still investigating her complaint. It gave referral rights to our service. We began to investigate Ms W's case.

In November 2020 VWFS issued its final response. It said, in summary, it had given Ms W the correct options and said it couldn't accept part payment on the agreement. It said it couldn't backdate a VT as Ms W had continued to use the car, so the arrears on the account were due. It reiterated her options were to VT the agreement, pay off the rentals and hand the car back, part exchange the car or settle the whole finance agreement.

It also said it needed to record accurate information on Ms W's credit file and the account would show in arrears as she had only been making part payments. It said the arrears currently stood at £2,111.60.

At the end of November 2020 Ms W spoke to VWFS and arranged to VT the agreement. This was confirmed and the car was picked up at the start of December 2020. VWFS said there were £2,111.60 arrears and after inspection said £86.40 was due for damage to the car.

In February 2021 the debt was passed on to a debt recovery agent.

Our investigator issued an opinion. He said he didn't think the complaint should be upheld. In summary, he said he thought the options given to Ms W were in her best interests. He said as Ms W decided to keep the car he didn't think VWFS did anything wrong by recording information against her credit file when she didn't make full repayments.

VWFS accepted the investigator's opinion. Ms W was unhappy with this. She made several points. She said she didn't decide to keep the car. She said, had she been able to speak to VWFS sooner, she would've been able to make an informed decision and she would've decided to hand the car back earlier and avoid arrears. And she says she never requested that a payment plan was put in place.

Our investigator spoke to Ms W and explained what she'd said didn't change his mind. Ms W remained unhappy, so the case was passed to me to decide.

I sent Ms W and VWFS a provisional decision on 22 September 2021. This explained that I didn't initially think the complaint should be upheld. My findings from this decision were as follows:

Ms W complains about service received when she was in financial difficulty in relation to a hire purchase agreement. Providing and administering consumer credit contracts such as this is a regulated activity, so I'm satisfied we can consider her complaint against VWFS.

When thinking about what's fair and reasonable, I take into account relevant law, regulations and guidance. VWFS has various guidance it needs to follow when dealing with consumers in financial difficulty including what is set out in the Financial Conduct Authority ('FCA') consumer credit sourcebook ('CONC'). CONC explains "A firm must treat customers in default or in arrears difficulties with forbearance and due consideration".

During the time Ms W was dealing with VWFS the FCA issued specific guidance to firms about dealing with customers during the COVID-19 pandemic. However, I won't comment much on this in my decision. This is because this guidance was to help businesses to provide support to customers who were experiencing short term financial difficulty due to COVID-19. I'm satisfied this didn't apply to Ms W, as her difficulties stemmed from her unfortunately losing her job, which happened a significant time before the pandemic.

Ms W says that if her options were made clear to her she would've decided to hand the car back earlier and would've avoided arrears. She says she needed to speak to VWFS to discuss this in order to make a decision. And she says she never asked for a payment plan and didn't decide to keep the car. So, I've thought about whether she would've understood her options here and what she told VWFS that she wanted to do.

Our investigator explained he thought Ms W was given suitable options on the phone from the call notes VWFS provided from its system. I requested recordings of the calls Ms W had with VWFS in March 2020 to hear what she was told.

When Ms W initially called VWFS she explained she had been unemployed for around a year and an insurance policy had stopped paying out which meant she could no longer afford her monthly repayments. She explained to VWFS that she ideally wanted to keep her car and could pay around £85 a month towards the agreement. She explained she wanted to then make up the repayments once she had found a job.

VWFS explained that she could either VT the agreement or visit a dealer to arrange a part exchange for a cheaper car. Thinking about what was said here, I'm satisfied the staff member explained what VT meant. They told Ms W she would have to pay 50% of the total amount due under the agreement and then pay for any charges such as refurbishment costs. Later in the call the staff member checked Ms W's account and explained she had already paid 50% of the total due and so could hand her car back at any point and would only be responsible for any additional charges.

During the call VT is discussed for some time and Ms W asks several questions about it. Thinking about this, I'm satisfied Ms W would've understood what her options were and she would've understood what VT was.

Ms W discussed what would happen if she went into arrears and if she paid a partial payment the following month, as she said she wanted to keep the car. VWFS explained during the call that it couldn't discuss a payment plan until Ms W had missed a payment. And it explained Ms W's credit file would be affected if she went into arrears. The call ended with Ms W agreeing to discuss things with a dealer.

Ms W called VWFS back later in March 2020. She again explained that she wanted to keep the car and make partial payments to her agreement. She also said she was unhappy VWFS won't discuss a payment plan until she is in arrears.

On this call a potential payment plan is discussed in more detail. The staff member explained in some detail that unless Ms W made her full repayment every month, her account would show in arrears on her credit file. It was explained that VWFS consider payment arrangements like that proposed by Ms W to only be suitable for short term financial difficulty. The staff member gave an example of a customer who couldn't pay for one month, then would make an arrangement to pay the arrears off over the following three months while also making their full repayment.

It was explained to Ms W on this call that there is no way she could reduce or change the repayments throughout the agreement, only on a one month basis. It was also explained that if she made partial payments for a number of months her account could be defaulted. The staff member then reiterated her options of VT or part exchanging the car for a cheaper model.

I've carefully thought about these phone calls. I appreciate Ms W says she didn't decide to keep the car and didn't ask for a payment plan. But, I'm satisfied she explains to VWFS that this is her preferred option and she said she would like to make a partial payment every month. I'm satisfied VWFS explained this wasn't an option long term and that she would go into arrears if this happened. And, I'm satisfied it was explained to Ms W what VT was and she understood she could hand the car back with only additional charges to pay if there was damage to the car.

I should also point out that having reviewed the emails and letters from VWFS it's clear Ms W's preferred option of making partial repayments every month and keeping the car was not offered nor agreed by VWFS. The options to VT or trade in the car were pointed out again. So, I've considered if the options she was provided were suitable.

I've thought about Ms W's situation at the time. I'm sorry to hear about her losing her employment and her difficulties finding another job.

I need to consider that Ms W explained to VWFS when she initially spoke to it that she had been unemployed at the time for around a year. So, I think in this case it's fair to say she wasn't experiencing short term financial difficulties and VWFS needed to think about the broader picture here. I should point out here that I don't think VWFS's initial approach of saying it would only discuss a payment plan after a Ms W had gone into arrears was in her best interest. But, I do need to consider that it was then discussed for some time during the second call.

VWFS has explained that if it agreed to Ms W's proposal of paying £85 a month she would be going into arrears of over £250 a month. Given Ms W had already been unemployed for a year at that point, I can see why it wouldn't offer this as an option. It doesn't seem to be in Ms W's best interests to enter into an arrangement where arrears would continue to accrue every month – potentially to an unmanageable level. This is especially true when she had the option to hand the car back and walk away.

Given Ms W had repaid over 50% of the total due under her credit agreement and could hand the car back without a lump sum being due, it seems sensible to me that VWFS highlighted her right to VT along with the option of discussing trading the car in for a cheaper model. Thinking about everything here, I think VWFS discussed sensible options with Ms W to help with her situation.

Ms W has also been unhappy with the communication from VWFS. So, I've considered what happened here.

I should point out that during the time in question the UK was experiencing a pandemic due to COVID-19. This had a knock on effect to most businesses and I'm satisfied it's likely this affected VWFS's ability to provide its usual level of customer service.

I can see Ms W asked for a call back from VWFS at a specific date and time to discuss the situation and I know she is unhappy this wasn't arranged. VWFS said this wasn't possible due to issues caused by the pandemic.

I can see VWFS attempted to contact Ms W on the phone on several occasions. I think, under normal circumstances, the best example of customer service would've been to arrange a call back on a time and date that suited her. But, I need to consider the impact of COVID-19 on VWFS' ability to do this. I can see it responded to Ms W's emails within a few days and explained she could call its phone lines, or it would be happy to help via email with any questions.

I understand Ms W said she'd tried to speak to VWFS on the phone from April to November 2020 but couldn't. I appreciate she had difficulty getting through at some points. But, I haven't seen enough to make me think it wouldn't have been possible for her to speak to VWFS sooner than she did. Given what was happening in the UK at the time and considering everything, I don't think VWFS needs to take any action here.

Ms W is unhappy with the information recorded on her credit file in relation to the account. I've thought about this but having considered everything, I think this is correct.

VWFS said it added a 'covid marker' to Ms W's account when she contacted it initially, so arrears or late payments weren't recorded in April, May and June 2020. After this date it recorded Ms W's payments as late or missed. I appreciate Ms W said she made partial payments to the account. But, this wasn't agreed with VWFS so I don't think this should be recorded as an arrangement to pay. I'm also satisfied VWFS were right to show the arrears on Ms W's credit file.

I've considered that Ms W says she shouldn't be responsible for the arrears on the account as she couldn't get through to VWFS. As I've explained above, I haven't seen enough to make me think it's most likely this was the case. But, either way, as far as I'm aware Ms W continued to use the car during this period. I think it's reasonable, given this, that even if couldn't get through to VWFS she should remain responsible for the repayments on the agreement. So, it follows I'm satisfied she should still be responsible for the arrears.

In summary, I've thought very carefully about everything Ms W has said. I can appreciate she wanted to keep her car and make reduced payments – and I'm satisfied she made it clear to VWFS that this was her preferred approach. But, I don't think this was a viable option given her circumstances and this would've most likely have led to further financial difficulty.

I think VWFS gave her alternative suitable options for helping with her situation. While Ms W said she needed to ask questions about these, I'm satisfied it was initially made clear to her on the phone what these options were. I don't think, given the pandemic, it was unreasonable of VWFS to not be able to call Ms W on a specific time and date that she set. I'm satisfied it did attempt to speak to her and it gave her the opportunity to ask questions about her options via email, which it appears she didn't do.

Taking everything into account, I don't think VWFS needs to take any further action here. I gave both parties one month to provide any further evidence or comments for me to consider. VWFS said it accepted my provisional decision. Ms W sent in some further evidence and made some points for me to think about.

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.

In her response to my provisional decision Ms W reiterated some of her original points. Where I'm happy things have already been explained and addressed in my provisional decision I won't repeat things here.

Ms W sent in some videos apparently showing her trying to call VWFS on three occasions in June 2020 and once in July 2020. One of these appears to show a 'dead' phone line. On the other calls there is an automated message saying VWFS are receiving too many calls to answer at the moment and to call back if urgent.

As I explained in my provisional decision, I accept Ms W had issues getting through to VWFS at some points. And, under normal circumstances, I don't think this is the level of service she could've expected. But, thinking about the wider picture here, and given the COVID-19 pandemic was ongoing at this point, I still don't think VWFS needs to do anything to put this right. And I also still don't think this shows Ms W couldn't have spoken to VWFS at some point between April and November 2020.

Ms W said VWFS shouldn't have sent her a default notice when we were investigating the complaint and shouldn't have recorded information on her credit file. She also says it told her at one point the arrears were lower than they ended up. But, as I explained in my provisional decision, I think Ms W is responsible for the arrears on the account. So, I don't think VWFS needs to do anything here.

Ms W has also complained about actions taken by the debt recovery agent. She will need to speak to this company directly if she is unhappy with it.

Finally, I want to reassure Ms W that I've carefully considered everything else she said in response to my provisional decision. And, I've thought again about all of the other information on this complaint. Having done so, I still think this complaint should not be upheld. This is for the same reasons as I explained in my provisional decision and set out above.

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 Ms W to accept or reject my decision before 22 November 2021.

John Bower
Ombudsman