

The complaint

Mr L complains that Volkswagen Financial Services (UK) Limited ("VWFS") didn't provide adequate support when he fell into arrears on his hire purchase agreement.

What happened

In December 2019, Mr L acquired a new car using a hire purchase agreement from VWFS. He was required to pay 48 monthly repayments of around £520 followed by a final optional payment of around £12,000 if he wanted to own the car at the end of the agreement.

In early April 2020, Mr L contacted VWFS requesting a payment holiday of three months because his income had been affected by the global covid-19 pandemic. VWFS responded to say it was liaising with the government and regulator and told Mr L not to worry if his account fell into arrears as they were taking steps to assist customers.

Mr L contacted VWFS again in July 2020 to say that he had missed the last three payments, would likely miss one more, but would then be able to resume his normal payments again from August. Mr L also said he'd noticed missed payments had been recorded on his credit file while he had been in a payment holiday and wanted these removed.

VWFS responded to say that Mr L hadn't been in any payment holiday, so the missed payments wouldn't be removed from his credit file. It said that because Mr L was in arrears on his agreement, he wasn't eligible for a payment holiday.

Mr L continued making his monthly contractual repayments from August 2020 onwards. VWFS sent him a message about the arrears in August. It says it also contacted him once in October and November. In February 2021, VWFS sent Mr L some text messages and emails asking him to contact them about his account. It also sent him a notice of default in the post due to the four months of arrears. The post was returned undelivered as Mr L had moved address. VWFS says Mr L didn't tell them about his change of address.

The agreement was terminated at the end of March 2021. Mr L got in contact with VWFS soon after to discuss the account. He said that he had maintained payments and the four months of arrears were from a time he should have been given a payment holiday. He said he wanted to continue paying his repayments and carry on with the agreement. VWFS didn't agree to this so Mr L raised a complaint. As VWFS still didn't agree, he referred his concerns to our service.

Our investigator recommended the complaint be upheld. She thought that VWFS acted unfairly by not giving Mr L a payment holiday between April and July 2020. This is because Mr L appeared to have been eligible for one as set out in the regulator's guidance concerning consumers affected by the pandemic. She said VWFS should re-instate the credit agreement and allow Mr L to continue on the same terms as before and pay him £150 compensation for the distress and inconvenience caused.

VWFS didn't agree. In summary, it said that after Mr L initially requested a payment holiday, he didn't contact VWFS again for over 100 days. This was despite VWFS not having agreed

to a payment holiday. It says that Mr L never applied for a payment holiday at any time. It said Mr L made no reasonable attempts to contact VWFS after the arrears notices were sent to him or when it sent emails and text messages asking him to contact them to discuss the account.

The complaint has been passed to me for 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.

VWFS says that Mr L never applied for a payment holiday, but I'm not persuaded that's entirely correct. I've reviewed VWFS' contact notes and I can see that when Mr L contacted it in April 2020 (prior to any arrears having accumulated) he said that his income had been impacted due to the covid-19 pandemic and he was hoping that VWFS would assist him by giving him a payment holiday of three months.

VWFS responded by email to say that if Mr L fell into arrears or financial difficulty he shouldn't worry as VWFS were taking steps to help affected customers. VWFS said it would contact Mr L to discuss what support was on offer as soon as possible. VWFS' notes following that contact state "*Set Cov19 for 3 Months*" and VWFS made no contact or took any action with the account for the next three months. So, it seems to me that Mr L did request a three month payment holiday and VWFS effectively accepted that request.

In July 2020, Mr L got in touch with VWFS again to say that he required a further month of support until he could maintain his regular monthly repayments again. At this time VWFS told Mr L he wasn't eligible for a payment holiday because his account was in arrears. However, as I've set out above, it seems VWFS had for all intents and purposes accepted Mr L's request for a payment holiday already. And even if it hadn't, I'm satisfied that VWFS should have approved a payment holiday for him between April and July 2020.

I say this because the regulator's guidance to firms around dealing with consumers impacted by covid-19 set out that those in circumstances such as Mr L's ought to be given a three month payment holiday (later increased to a maximum of six months). It's clear that Mr L's financial difficulty was short-term and caused in isolation by the covid-19 pandemic. VWFS were also made aware prior to the arrears accruing that this is what caused Mr L's financial difficulty. Further, VWFS didn't at that time tell Mr L that he needed to take any other specific steps to apply for a payment holiday. I therefore see no reason why he wouldn't be eligible for an initial three month payment holiday, followed by a further month when he asked for it in July 2020.

Had VWFS correctly applied the payment holiday between April and July 2020 then it ought never to have sought to terminate the credit agreement. For this reason, I think it's fair that VWFS now either re-instate the credit agreement, or if that isn't possible, it should allow Mr L to keep the car under the same terms as were originally contained in the credit agreement. It should also remove any adverse information it has recorded against his credit file. Lastly, I think finding out VWFS had been recording adverse information for several months after he was led to believe VWFS would ensure it provided adequate support for him would understandably have been distressing for Mr L. In the circumstances, I think VWFS should pay Mr L £150 for the upset it caused.

VWFS says that Mr L wasn't proactive in contacting it about the arrears nor did it correctly update VWFS with his new address. It says it tried to contact Mr L by text message as well as email about the arrears, but Mr L didn't respond. It says for these reasons it didn't act

unfairly in terminating the agreement. However, as I've set out above, I think it was VWFS' initial error that led to their being a situation where arrears were being recorded when they shouldn't have been. Had VWFS done as it should – which was to provide Mr L with a payment holiday – he would never have been in the position whereby VWFS might terminate the agreement. This is because Mr L continued to make his contractual payments from August 2020 onwards.

I've noted from VWFS contact notes that it's possible Mr L did update them with his new address but that it was VWFS' error as to why it wasn't updated. However, the evidence surrounding this is unclear. In any event, I do agree with VWFS that Mr L could have contacted VWFS sooner when text messages and emails were sent to him. So, I don't think Mr L did all he reasonably could to mitigate his current position of having the agreement terminated. It is for this reason I've considered compensation of £150 to be fair and reasonable, rather than a larger award.

My final decision

For the reasons given above, I uphold this complaint and direct Volkswagen Financial Services (UK) Limited to:

- Re-instate Mr L's hire purchase agreement, or if this isn't possible, to allow Mr L to keep the car under the same terms as previously agreed under that agreement and as if a payment holiday had been accepted between April and July 2020.
- Remove any adverse information recorded on Mr L's credit file.
- Pay £150 compensation for the distress caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 11 July 2022.

Tero Hiltunen
Ombudsman