

The complaint

Mr W complains about the support he received from Volkswagen Financial Services (UK) Limited trading as Audi Financial Services (VWFS) during his time of financial difficulty due to the Covid-19 pandemic.

What happened

In November 2019, Mr W entered into a 48 month personal contract purchase agreement (PCP) for a new car. The car's cash price was £44,470. He was required to pay instalments of £479 with an optional final payment of £23,465.

In May 2020, Mr W told VWFS that due to the Covid-19 pandemic he was experiencing financial difficulty as his income had been reduced as he was furloughed. In June 2020, he requested a payment deferral and the agreement was temporarily suspended.

VWFS said in order for the payment deferral to be set up he had to agree to a modified agreement which meant the monthly instalments would be £520 for the remaining 39 months followed by the final payment. Mr W explained to VWFS that he wouldn't be able to afford this and he asked for the term to be extended instead. He later agreed to the modified agreement and a three month payment deferral was set up from June to August 2020. However Mr W complained.

VWFS said in order to support consumers following a payment deferral there were two options:

1. Fixed term- the instalments would increase and the term remains the same;
2. Extended term- the agreement is extended by the duration of the payment deferral and the instalments would increase.

They said in both options the monthly instalments would increase and having regard to the amount of time left on Mr W's agreement (more than 18 months), option one was the most suitable for him.

As the first payment deferral was coming to an end, in September 2020 Mr W told VWFS his financial situation hadn't changed. As before, VWFS sent a proposal to modify the agreement. This time they said the instalments would increase to £567 for the remaining 36 months. As this still meant the instalments would be unaffordable for Mr W, he made a further request to VWFS for the agreement to be extended but they refused. Mr W agreed to the modified agreement and a second payment deferral was set up to last a further three months- September to November 2020.

Concerned about his ability to afford the agreement once the deferral ended, in January 2021 Mr W used his savings to make a partial payment of £2,750. He said he did this to ensure the instalments returned to an amount he could afford. The agreement was brought up to date and he's been paying instalments of £481 ever since.

Unhappy with VWFS, Mr W brought the complaint to our service. Our investigator recommended the case was upheld. They believed VWFS hadn't fairly taken into account Mr W's financial circumstances. They recommended they offer to extend the agreement and if Mr W accepted, to refund the partial payment of £2,750. They also said VWFS should pay £150 compensation.

Since the investigator's opinion there has been much back and forth between our service, VWFS and Mr W. VWFS initially maintained their position and said the partial payment couldn't be refunded. However they later agreed to try to resolve matters informally with Mr W. During a conversation with him, they proposed to extend the agreement by one month which meant the instalments would increase by £106. As this remained unaffordable, Mr W didn't agree to it.

In February 2022, I issued a provisional decision, upholding the complaint. I said:

"Financial difficulty

The UK government imposed a nationwide lockdown due to the Covid-19 pandemic in March 2020. Based on VWFS' contact notes, I can see Mr W told them in May 2020 was experiencing financial hardship as a result.

In instances of consumer's facing financial difficulty, the relevant guidance that I would expect VWFS to follow is found in the Financial Conduct Authority's handbook– Consumer Credit Sourcebook (CONC) which says 'A firm must treat customers in default or in arrears difficulties with forbearance and due consideration'. So I've taken this into account when reviewing this case.

Additionally, at the time of Mr W's call in May 2020, the Financial Conduct Authority (FCA) had published its Motor finance agreements and coronavirus: draft temporary guidance for firms. This set out the rule changes to deal with the impact of Covid-19. It stated a firm should grant a customer whose finances had been negatively impacted by the pandemic, a payment deferral for three months unless the firm determines (acting reasonably) it's obviously not in the customer's interests to do. In this case, it's clear Mr W's financial difficulties were due to him being furloughed due to the pandemic so I'm satisfied the guidance applied to him. Therefore I would've expected VWFS to offer a payment deferral which is what happened. A three month payment deferral was offered and subsequently agreed to in June 2020.

In July 2020 the FCA issued further guidance saying if a customer wasn't able to resume full payments after the payment deferral, a further one should be offered. Again this was granted to Mr W in September 2020 as his financial situation hadn't changed. In total, a six month payment deferral was applied which was the maximum allowed under the guidance so I'm satisfied VWFS did provide financial support to Mr W.

However, I note in order for the payment deferrals to be granted, Mr W needed to agree to the agreement being modified. I've read VWFS' correspondence to Mr W which outlined the same. The first one confirmed the instalment would increase to £520. By the second one, it had gone up to £567. This was an overall increase of £88 per month which I consider to be significant so I can understand why Mr W felt reluctant to commit to such an agreement of increased instalments at a time when he's experiencing financial difficulty.

The letters explained in order to receive the payment deferral, he must sign the modified agreement and return it within ten calendar days. If he doesn't agree to it or it's not received within ten days, the agreement will be unsuspended and the direct debits reinstated. It goes on to say any payments and/or arrears would be due unless contact is made to make other

arrangements. This shows there were other support options available but I can understand Mr W may not have fully realised that at the time.

Having read the FCA's guidance in April and July 2020, I think it's fair to say the purpose was to provide temporary and immediate support to consumers who were struggling financially due to the pandemic. So I don't find it fair nor reasonable that in order to receive the payment deferral, Mr W needed to agree to a modified agreement and commit to paying increased instalments at a time when he's experiencing financial difficulty. At the time, it would've been difficult for him to predict with any degree of certainty what his financial situation would look like at the end of the deferral and the extent of the impact of the pandemic on his circumstances.

As part of my investigation, I spoke to Mr W about his personal and financial circumstances at the time. He said he had been furloughed for six months so his salary was reduced. He explained during this time his employer started making redundancies which might have impacted his role. He said the future of his employment was uncertain as there was no guarantee he would return to work even once the furlough ended. In addition, his partner was expecting a baby and due to go on maternity leave so he was very concerned about his financial situation and it caused him great worry and upset. He said the monthly instalment of £479 was the most he could afford each month, nothing more. Given these wider circumstances, I can understand why Mr W was stressed by the situation. I appreciate it would've been a difficult time for him.

In order to keep the agreement at a monthly amount he could afford, he said he felt he had no alternative but to use his savings to make a partial payment of £2,750. He said this was the last resort as the savings were for a deposit towards buying a property for his growing family. On this basis, I can understand why he wants this money back.

The FCA's guidance in July 2020 provided further clarity about the expectations on firms including what happens at the end of the deferral. This guidance was in place at the time the first payment deferral came to an end in August 2020 so I would've expected VWFS to take this into account.

In regards to what happens at the end of the deferral period, the guidance says:

"Firms should take reasonable steps to contact their customers in good time before the end of an initial payment deferral period about resuming payments and to engage with them about their options when it expires"

It also says:

"Where a customer can resume full repayments after the initial payment deferral, but is unable to pay the deferred amounts immediately and in full, the firm should allow them to repay the deferred amounts over the remaining term of the agreement or allow a longer period for repayment. The firm should consider what is most in the customer's interests.

For example, where appropriate, the firm could lengthen the time during which the customer is allowed to make repayments by:

- the length of the initial payment deferral or
- a period of time that enables the customer to keep the same contractual payments they had prior to the payment deferral".

There are other parts of the guidance which are relevant in this case but I specifically wanted to highlight the above. This is because I think it's fair to say the FCA's intention was where a

payment deferral had been granted and it's due to come to an end, it was expected businesses like VWFS to work with consumers about how best to pay the missing sums. However, to my mind, this hasn't happened in this case. In order to get the payment deferrals, Mr W had to agree to the repayment plan by agreeing to modify the agreement of increased monthly instalments.

Given the wider context of the pandemic and the significant impact on VWFS and their operations, I recognise they would've had to quickly set up support for their consumers and work through the impact of the same in the long term. Additionally, given the large number of consumers that was likely to have requested such support, it's reasonable they wanted to offer support on a cohort level. As explained by VWFS, they made the operational decision to provide two possibilities of repayment depending on how long was left on the agreement, that is, agreements with more than 18 months left and those under 18 months left. I can understand why VWFS decided not to automatically add deferred payments to the end of the agreement as this is likely to increase the total amount payable which wouldn't always be in the interest of their consumers.

However I wouldn't have expected Mr W to commit to such a modified agreement in order for the payment deferral to be granted in the first place if it was unaffordable for him. I believe it would've been fairer to grant the deferral and as it came to an end, VWFS to communicate with him about the proposed repayment options. At this point, it's most likely he would've had a better understanding of his financial circumstances and his ability to repay.

For some consumers paying increased monthly rentals during the term of the agreement may have been agreeable and in a lot of cases this would be fine. I don't believe VWFS increasing the instalments in order to pay back the deferred sums is an issue in itself. However problems arise when those increases are unaffordable. Where this happens, I would expect alternative and sustainable support to be offered. In this case, the increased rentals would cause financial difficulty for Mr W so I believe it would've been reasonable for VWFS to have assessed his individual circumstances and provided appropriate support. However there is no evidence they done so despite him making it clear the increased instalments were unaffordable. As mentioned in the FCA's guidance such support may include extending the agreement by the appropriate number of months which would allow the same instalments amount prior to the deferral.

Our investigator reached the same opinion as outlined above so it's disappointing that even when VWFS agreed to discuss a suitable way forward with Mr W, they only proposed to extend it by one month. The amount they proposed was still unaffordable so I don't find it was a productive conversation so I can understand Mr W's further upset. It's unclear why VWFS only offered to extend it by one month when they have the ability to extend it for longer. This was another opportunity for VWFS to take into account Mr W's circumstances and what he could afford. Had they done so, this situation could've been resolved sooner. I wish to point out that extending the agreement is likely to mean Mr W pays more overall so if this option and relevant figures were made clear to him, I don't know whether he would've acted differently. However that would've been his decision to make with the relevant information.

To put things right, I believe VWFS should treat the six payments between June and November 2020 as deferred and any adverse information relating to these months should be removed from Mr W's credit file. They should also refund the partial payment of £2,750.

There is no dispute the six deferred payments should be paid as this is money owed to VWFS and Mr W accepts this. Once the £2,750 is refunded, VWFS should allow him to pay the contractual instalment amount prior to the payment deferral (that is £479). I must make it

clear to Mr W if he's unable to pay at least the original contractual payment this may impact his credit file. If he's able to pay more, they should allow him to do so. If there remains a balance at the end of the agreement, they should set up a suitable repayment plan based on what he can afford. I would like to take this opportunity to remind VWFS that if Mr W is still experiencing financial difficulty, they should treat him with forbearance and due consideration.

VWFS has advised should the agreement be extended this is likely to impact on Mr W's ability to purchase the car should he plan to do so at the end of the term. In the event he wishes to buy the car, any missed payments must be paid in addition to the final payment. So I encourage Mr W to take this into consideration as any extension is likely to mean he pays more overall due to the interest.

Summary

Overall, I recognise VWFS' efforts to offer financial support to Mr W in line with the FCA's guidance however I don't believe they fairly took into account his individual circumstances when discussing the repayment of the deferred sums.

I've carefully thought about Mr W's comments and how he's said this situation has impacted him during what was already a difficult time. He looked to VWFS for support during his time of financial difficulty and their failings added to his worry. Given the circumstances, I believe VWFS should pay £200 compensation for the trouble and upset caused.

Response to my provisional decision

Both parties were invited to respond to the above. VWFS said if they were to implement the above, it would likely lead to issues with Mr W's credit file and impact his ability to own the car at the end of the agreement. In order to settle the complaint they said they were willing to make a goodwill payment of £1,375 (half of the partial payment) to Mr W and he wouldn't be required to pay this amount back. They confirmed this wouldn't have any impact on the current agreement meaning he would continue to pay the monthly instalments of £481. In addition, they agreed to pay the £200 compensation. This offer was put to Mr W and he agreed to accept it.

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 believe VWFS' offer to be fair and reasonable in the circumstances and I'm glad to see Mr W has agreed to the same.

My final decision

For the reasons set out above, I've decided to uphold Mr W's complaint.

To put things right, Volkswagen Financial Services (UK) Limited trading as Audi Financial Services should:

- Make a payment of £1,375 (half of the partial payment) to Mr W;
- Treat the missed payments from June 2020 to November 2020 as deferred and remove any adverse information from Mr W's credit file for those months;

- Pay £200 compensation to Mr W for the trouble and upset caused;

*If Volkswagen Financial Services (UK) considers that it's required by HM Revenue & Customs to withhold income tax from that interest, it should tell Mr W how much it's taken off. It should also give Mr W a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 21 March 2022.

Simona Charles
Ombudsman