

The complaint

Mr A believes Volkswagen Financial Services (UK) Limited (VWFS) acted irresponsibly by agreeing a hire purchase agreement he'd applied for.

Mr A is being represented in this complaint by Mrs A. But, for ease of reference, my decision will refer to them both as Mr A.

What happened

On 29 March 2019, Mr A took out a hire purchase agreement with VWFS to fund the purchase of a new car. He paid a deposit of £1,350 and the agreement was for £23,985 over 48 months, with 47 monthly repayments of £345.31 and a final payment of £10,184.

Mr A's income was impacted by the coronavirus (Covid-19) pandemic which resulted in him losing his job. In March 2020 he contacted VWFS and asked for 60-days breathing space. And on 6 April 2020 he asked what his options were for ending the agreement.

On 30 April 2020, he asked VWFS for a payment deferral (also known as a payment holiday). But VWFS declined this on 18 May 2020, as Mr A had already asked about ending the agreement and returning the car. A few weeks later, Mr A applied again for a payment deferral, and this was approved on 16 June 2020. VWFS discussed the terms of this in a call on 26 June 2020, and Mr A signed the paperwork to accept the terms of the deferral on 28 June 2020.

Mr A applied for a further payment deferral on 1 August 2020, but VWFS declined this as being unsuitable – they say that Mr A failed to answer all the questions he was asked.

In November 2020, Mr A felt he could no longer afford the payments, and he contacted VWFS to discuss his options. But he couldn't afford the voluntary termination (VT) shortfall.

Mr A complained to VWFS that they shouldn't have approved the agreement – he was only 18 at the time, and he'd only been in his job for three months. He also complained that VWFS had recorded the payment deferral as missed payments on his credit file, and that they'd told him he could add the deferred payments to the end of the agreement, which wasn't the case.

VWFS said they'd carried out reasonable and proportionate checks, which showed that the agreement was affordable for Mr A. So, they didn't think they shouldn't have approved the agreement. But they did say their customer service when dealing with his complaint could've been better. And they corrected Mr A's credit file and offered him £50 compensation. Mr A wasn't happy with this, and he brought his complaint to us investigation.

Our investigator said she thought VWFS had carried out reasonable and proportionate checks when they assessed Mr A's application. And these showed the agreement was affordable. So, she thought they'd made a fair lending decision.

The investigator thought that VWFS had acted fairly when they approved the payment deferral for Mr A. But she didn't think they'd acted fairly by not considering his circumstances when deciding to increase the remaining payments, instead of extending the agreement. But, because Mr A has been making the new (increased) payments, she didn't think it was reasonable for VWFS to now restructure the agreement. And she thought they should pay Mr A an additional £150 compensation.

The investigator also said that she hadn't seen anything to show that VWFS hadn't corrected Mr A's credit file. So, she didn't think they needed to do anything more about this.

Mr A didn't agree. He said that he was *"told 100% at the beginning of Covid that all payments owed would definitely be added on to the agreement and no extra per month was to be paid."* And he said that he was told this in multiple phone calls. He also didn't think it was fair that he could take out the agreement with less than 12-months employment history.

Mr A was also unhappy that VWFS collected the payment for May 2020, despite a payment holiday being agreed. He's also said that his financial circumstances have now changed, because of Covid-19, and he's had to take a job with a lower salary. Which means that he can't afford the payments to VWFS. And he's provided a copy of an income and expenditure statement to show this.

Mr A also didn't think that £200 was sufficient for *"all the stress and anxiety and phone calls for over 18 months."* Mrs A has also explained how this experience has affected her, and she thinks VWFS should consider this – if they'd wanted Mr A to deal with this complaint, then they should've never let her act as his representative.

Mr A has asked for an ombudsman 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.

affordability

When someone complains about irresponsible and/or unaffordable lending, there are two overarching questions I need to consider in order to decide what's fair and reasonable in all of the circumstances of the complaint. These are:

1. Did VWFS complete reasonable and proportionate checks to satisfy itself that Mr A would be able to repay the credit in a sustainable way?
 - a. if so, did VWFS make a fair lending decision?
 - b. if not, would reasonable and proportionate checks have shown that Mr A could sustainably repay the borrowing?
2. Did VWFS act unfairly or unreasonably in some other way?

And, if I determine that VWFS didn't act fairly and reasonably when considering Mr A's application, I'll also consider what I think is a fair way to put things right.

Did VWFS complete reasonable and proportionate checks to satisfy itself that Mr A would be able to repay the credit in a sustainable way?

There's no set list for what reasonable and proportionate checks are, but I'd expect lenders to consider things such as the amount, duration and payments of the finance being applied for; as well as the borrowers' personal circumstances at the time of each application.

I've seen a copy of the agreement Mr A signed on 2 March 2019, and this details the information he'd given VWFS as part of the application process. This says he was 18 years and 7 months old, living with his parent(s), and had been in his current employment for three months. Mr A was legally able to enter into an agreement from the age of 18, and it would be illegal to discriminate against him and refuse his application just because of his age. As such, while I appreciate that Mr A now thinks he was too young to take out the finance, I don't think VWFS did anything wrong by not refusing his application because of his age.

VWFS have said that Mr A's application was credit scored and a background check was done. However, they don't have the facility to reproduce these and provide them for consideration. But VWFS have provided copies of the bank statements Mr A supplied as part of his application.

I've seen Mr A's bank statements for the period 12 December 2018 to 11 February 2019. These show a large amount of discretionary spending and transfers in and out of another account Mr A had. The bank statements show that the account was conducted well, and there were no instances of Mr A going overdrawn. There were some betting transactions, but nothing to indicate a gambling problem. And Mr A hasn't said he had a gambling problem.

The bank statements also show an average monthly income of £1,816 and Mr A's only regular expenditure was his mobile phone - an average of £113 a month. Given that Mr A declared he lived with his parents, I wouldn't necessarily expect to see any regular outgoings for utility bills, council tax etc. So, based on what I've seen, Mr A had £1,703 disposable income each month. Which I'm satisfied would be sufficient to pay any board to his parents, to pay for the costs of running a car (fuel, tax, insurance), pay VWFS, and still have disposable income for his discretionary spending.

As VWFS are unable to replicate this, Mr A has been asked to provide a copy of his credit file to show what his outgoings were at the time of application. But he declined to provide this, instead saying that he *"did not have bad credit at the time the agreement was taken out."* And he didn't want the *"negative impact"* of looking at his credit score.

Given that Mr A has said he didn't have any bad credit at the time of the application, I think the credit check VWFS carried out is unlikely to have shown any adverse information. And, without any additional evidence to show that Mr A had additional outgoings that weren't showing on his bank statements in early 2019, I'm satisfied that the checks VWFS carried out were reasonable and proportionate and show the agreement was affordable to Mr A.

Did VWFS make a fair lending decision?

I've seen that Mr A applied for the finance on 11 February 2019 and signed the paperwork on 2 March 2019. So, I'm satisfied that he was given sufficient time to review and consider whether it was right for him. And I've not seen anything to show that he was in any way pressurised into taking out the agreement.

Mr A has also explained that he was only a few months into his job when he applied for the agreement. But he hasn't provided anything to show me that his employment was either temporary, or that it was in some way unstable i.e. he was still in a probationary period and was unlikely to be made permanent. What's more, I haven't seen that he told VWFS there may be problems with his ongoing employment.

So, as there's nothing to show that Mr A's employment wasn't going to continue, I don't think VWFS have done anything wrong by approving the finance without him being in employment for a longer period of time.

Given the above, I don't think VWFS acted unfairly when they made their lending decision. And this is also shown by the statement of Mr A's account, which shows that he was able to make the payments to VWFS without any difficulties until he lost his job.

Did VWFS act unfairly or unreasonably in some other way?

I haven't seen anything to make me think VWFS acted unfairly or unreasonably in some other way.

payment deferral

There's some dispute as to what Mr A was told when he applied for the payment deferral. While Mr A he was told that the deferred payments would be added to the end of the term, VWFS have said that this option wasn't available to Mr A, due to the length of time the finance agreement still had to run.

I've asked VWFS for a copy of the call of 26 June 2020, where they discussed the payment deferral terms with Mr A. But they haven't provided this. And their case notes for this call just say that the length of payment deferrals and options were discussed.

VWFS have also said that Mr A signed paperwork agreeing to the terms of the payment deferral – that the deferred payments would be split across the existing term, and the monthly payment increased accordingly. But they haven't provided a copy of this paperwork.

There's nothing in the payment deferral guidance issued by the Financial Conduct Authority (FCA) in April 2020 that says the term cannot be extended when a payment deferral is granted. Given this, given that Mr A believed that the deferral was granted on the basis that it would be the term, and not the monthly payments, that increased, and given that VWFS have not been able to show that Mr A agreed to something different to his understanding; I'm satisfied that VWFS didn't act fairly when agreeing the payment deferral. And they need to do something to put things right.

Putting things right

While I don't think that VWFS acted fairly, Mr A has been paying the increased payment. And, given this, I don't think that VWFS now restructuring the agreement would be the best option. So, I'm in agreement with the investigator that VWFS should pay Mr A some compensation for the distress and inconvenience he's been caused.

However, I need to consider that Mr A has also been affected by the loss of his job, and the financial difficulties this has caused him. And while this has certainly added to the stress of the situation, it's not something VWFS can be held responsible for.

What's more, Mrs A has explained that she's also been distressed and inconvenienced as Mr A's representative. However, as the agreement was in Mr A's sole name, I can only consider the impact on him. And I don't think VWFS letting Mrs A act as her son's representative in this matter changes this.

So, taking all of this into consideration, I'm satisfied the £150 compensation (on top of the £50 VWFS had already paid Mr A) recommended by the investigator is fair and reasonable in the circumstances. And I won't be increasing this amount.

Mr A has also asked about handing the car back with nothing more to pay. This can be done under the VT terms in the agreement. But doing so would leave a shortfall, as Mr A hasn't paid the minimum amount he'd need to, to be able to do this with nothing more to pay.

As Mr A is currently in financial difficulties, I'd expect VWFS to follow the FCA guidance about treating him with consideration and forbearance. And I'd hope they'd consider allowing him to hand the car back, and pay off any shortfall in affordable instalments, if this is something that would work for both parties. But it isn't something I'm able to tell them to do.

So, VWFS should pay Mr A £150 compensation for the distress and inconvenience he's been caused.

My final decision

For the reasons explained above I uphold Mr A's complaint. Volkswagen Financial Services (UK) Limited must follow my directions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 25 May 2022.

Andrew Burford
Ombudsman