

## **The complaint**

Mr E is unhappy that Volkswagen Financial Services (UK) Limited (“VWFS”) terminated his hire agreement.

## **What happened**

Mr E acquired a new car under a 36 month hire agreement with VWFS in March 2019. Under the agreement, Mr E was required to make one advance rental payment of £1,504.44 followed by 35 payments of £250.74.

In March 2020, Mr E emailed VWFS and said he was impacted as a result of the Covid-19 pandemic and he wanted VWFS to freeze or postpone his repayments, without any applicable interest being charged. VWFS responded and said information about the support it was providing during the Covid-19 pandemic was available on its website. Mr E responded and said he had cancelled his payments and would restart after three months, unless VWFS had more options at the time.

On 3 March 2021, due to arrears owed by Mr E under the agreement, VWFS issued Mr E with a Notice of Default. It said he needed to pay the arrears of £752.22 by 22 March 2021. In April 2021, VWFS let Mr E know he owed arrears of £802.22 under his agreement. This included a £50 payment for the initial registration. But Mr E said he had been making his payments by Standing Order and that because VWFS had provided him with an incorrect agreement number, the payments hadn’t been allocated to his account. Following this, VWFS terminated the agreement in June 2021. So, Mr E complained to VWFS.

VWFS issued its response to Mr E’s complaint in July 2021. It said when Mr E first contacted it, it wasn’t offering payment deferrals (“PD”). It said in his email, Mr E told it he would be cancelling his Direct Debit. It said whilst it accepted it could have let Mr E know he shouldn’t cancel his Direct Debit, it did tell him that a PD wasn’t in place. It said Mr E’s Direct Debit had never been reinstated, but it received payments from Mr E by Standing Order. It said despite this, his agreement was in three months of arrears and so it terminated the agreement correctly, as Mr E didn’t make the outstanding arrears payment.

Unhappy with this, Mr E referred his complaint to this service. He said the agreement was terminated incorrectly as the three missed payments were covered by a PD.

Our investigator looked into the complaint and said that because a PD hadn’t been agreed and three monthly payments had been missed, VWFS hadn’t acted unfairly when it terminated Mr E’s agreement.

VWFS agreed. But Mr E disagreed. He said he hadn’t been told a three month PD hadn’t been accepted, he accepted he’d received letters from VWFS that said he owed it money but every time he checked his Standing Order, the money had been paid, he had made a number of calls to VWFS to discuss the account and VWFS didn’t tell him the arrears had accrued from the time he was in a PD.

As Mr E remains unhappy, the complaint has been passed to me to decide.

## **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.

Mr E was supplied with a car under a hire agreement. This is a regulated consumer credit agreement which means we're able to look into complaints about it.

I've read and considered the whole file and acknowledge that Mr E has raised a number of different complaint points. I've concentrated on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it – but because I don't think I need to comment on it in order to reach what I think is the right outcome.

What I need to decide in this case is whether VWFS fairly terminated Mr E's agreement or not. If it didn't, I'll need to think about what's fair to put things right.

The Financial Conduct Authority (FCA) issued temporary guidance on 24 April 2020, that came into effect on 27 April 2020, about customers who were faced with payment difficulties as a result of Covid-19. This allowed financial businesses such as VWFS to grant a three-month payment deferral to people like Mr E. The guidance said that *"a firm should grant the customer a payment deferral for 3 months unless the firm determines (acting reasonably) that it is obviously not in the customer's interests to do so."* The guidance also said that *"firms should not report a worsening arrears status on the customer's credit file during the payment deferral period."*

In this case, Mr E contacted VWFS around a month before the FCA issued guidance to motor finance providers about customer's who were faced with payment difficulties as a result of Covid-19. When VWFS responded to Mr E before the FCA guidance was issued, it said, *"...I can confirm that VWFS is offering enhanced forbearance options to support customers during this challenging time such as arrangements to pay and breathing space. This information can be found on the VWFS website"*. Mr E responded to this to say, *"Ok thank you very much. I've cancelled my payments & will start again in 3 months unless VW have more options if needed at the time"*.

Mr E says he followed a link VWFS sent him and filled out a three month PD form online and sent this to VWFS. However, VWFS has said PD's were only made available to its customers on 27 April 2020. In addition, when PD's were granted a lender would discuss with its customer how an agreement would be restructured following a PD ending. Mr E hasn't provided any supporting information to suggest he received confirmation that a PD request had been accepted or what the terms of his hire agreement would be following a PD.

So on balance, I think it's more likely than not that Mr E didn't request a PD through VWFS's online channel on 27 March 2020, as this wasn't an option that was available at the time. I think this is supported by the email Mr E sent VWFS around 15 minutes after VWFS had emailed him, as it doesn't mention that he filled out an online PD form, instead it mentions that Mr E has cancelled his payments. In addition, Mr E hasn't provided any supporting information to suggest that VWFS confirmed he had been granted a PD. So I'm satisfied that Mr E wasn't granted a PD by VWFS.

I've gone on to consider whether I think Mr E's agreement was terminated fairly.

In February 2021, VWFS sent Mr E a Notice of Sums in Arrears letter. This confirmed his account had arrears of £752.22. The statement suggested Mr E had missed three payments between October and December 2020. As VWFS didn't receive a payment, or contact from Mr E about the arrears, it sent him a Notice of Default in March 2021. It said Mr E needed to pay the outstanding arrears before 22 March 2021, or it would consider terminating the agreement.

Mr E contacted VWFS in April 2021 and it was established that he'd made four payments by Standing Order which hadn't been applied to his agreement. Mr E said he had made his payments and he was up to date with his agreement. But this wasn't correct as Mr E hadn't

made the monthly payments in March, April and May 2020 and so any payments he made towards his agreement from June 2020 were allocated to the outstanding arrears in calendar order. So VWFS applied the missing payments to Mr E's agreement and said any further arrears letters could be ignored.

Following this, VWFS carried out a review and called Mr E in May 2021 to explain why arrears were owing under his agreement. System notes from the call confirm that Mr E told VWFS he wouldn't engage with it and would delete any further correspondence he received. After this, VWFS sent Mr E regular arrears text messages and emails. But because Mr E didn't pay the outstanding arrears, his agreement was terminated in June 2021.

Having thought about this carefully, when VWFS told Mr E his account was in arrears and detailed the months it hadn't received payment for, it did so correctly as a PD hadn't ever been agreed or applied to Mr E's agreement and so any payments he made were allocated to the arrears. In addition, Mr E hasn't disputed that he didn't receive the arrears correspondence or contact from VWFS. Instead he's said his payments were up to date because when he checked the corresponding monthly payment on his bank statement, a payment had been made. But he also missed three monthly payments between March and May 2020, which VWFS hadn't ever agreed to him missing.

Given that VWFS attempted to engage with Mr E to explain why his agreement had accrued arrears and he didn't make the arrears payment before the agreement was terminated, I'm satisfied VWFS fairly terminated Mr E's agreement.

Overall, I'm satisfied VWFS didn't tell Mr E it had granted him a PD and I don't think it unfairly terminated his agreement.

### **My final decision**

I do not uphold Mr E's complaint.

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

Sonia Ahmed  
**Ombudsman**