

The complaint

Miss G complains about the treatment of her by Volkswagen Financial Services (UK) Limited trading as Audi Financial Services following the final payment due from her under a hire purchase agreement became payable.

What happened

On 21 December 2018 Miss G entered into an agreement with VWFS for a used car costing £37,845. Under the terms of the agreement, everything else being equal, Miss G undertook to make 48 monthly payments of £606.89 followed a single payment of £21,361.25 making a total repayable of £50,491.97 at an APR of 10.8%.

On 31 December 2018 VWFS wrote to Miss G confirming the above and that the single payment of £21,361.25 was due for payment on 27 January 2023.

Miss G made the 48 monthly payments required of her but didn't make the single payment of £21,361.25 payable by her on 27 January 2023.

On 1 February 2023 VWFS wrote to Miss G to say that it hadn't received her final payment, due under the agreement, of £21,361.25.

On 6 March 2023 VWFS wrote to Miss G to say that it hadn't received her final payment, due under the agreement, of £21,361.25.

On 4 April 2023 VWFS issued Miss G with a default notice. Under cover of this notice VWFS said that in the event the sum of £21,361.25 wasn't paid to it by 23 April 2023 it reserved its right to take a number of actions.

On 2 May 2023, having received the above default notice, Miss G contacted VWFS.

On 16 May 2023 VWFS declined a refinancing application from Miss G for the sum of £21,361.25.

On 9 June 2023 Miss G complained to VWFS about its decision to seek repayment from her of the sum of £21,361.25.

On 9 August 2023 VWFS advised Miss G that it didn't uphold her complaint.

On 20 December 2023 VWFS advised Miss G that she could either sell the car and settle the agreement in full or hand it back with nothing further to pay.

On 27 December 2023 Miss G referred her complaint to our service.

Miss G's complaint was considered by one of our investigators who came to the view that VWFS had done nothing wrong and had, in all the circumstances, treated her fairly and reasonably.

Miss G didn't agree and so her complaint has been passed to me for review and 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.

The first thing for me to say is that although I've not been provided with everything that the investigator, on my behalf, asked VWFS and Miss G to provide, I'm satisfied that both parties have provided enough of what was requested by the investigator on my behalf for me to be able to fairly and reasonably decide this complaint without further delay.

Secondly I would like to make clear that I'm only considering in this decision Miss G's complaint about how VWFS has treated since 27 January 2023, the date by which she was required, under the terms of her agreement, to pay VWFS £21,361.25. I'm not considering any other complaint Miss G might have against VWFS (or its agents) including (but not restricted to) the interest terms on which VWFS agreed to lend to her.

Thirdly I would like to make clear that I've read the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point (including those made by Miss G in her substantive responses to the investigator's view) or particular piece of evidence, 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. Our rules allow me to do this, reflecting the fact that we are an informal free service set up as an alternative to the courts.

Finally I would add that where the information I've got is incomplete, unclear or contradictory, I've to base my decision on the balance of probabilities.

December 2022 to April 2023

Miss G submits that she contacted, or tried to contact, VWFS on a number of occasions between December 2022 and April 2023.

Unfortunately Miss G has been unable to provide any documentary evidence (such as itemised phone bills) in support of such contact, or attempted contact. Furthermore, Miss G's submission in this respect isn't supported by VWFS' contact notes, notes that I'm satisfied that I can reasonably rely on as being an accurate reflection of all contact (and attempted contact) between VWFS and Miss G.

So although I accept I can't say for certain Miss G didn't contact, or try to contact, VWFS between December 2022 and April 2023 I can't reasonably find, on the balance of probabilities, that she did so.

Given what I say above I can further confirm that I'm satisfied that VWFS did nothing wrong in sending the correspondence to her that it did in February, March and April 2023.

May 2023

In May 2023 Miss G applied to VWFS to refinance the sum she owed of £21,361.25, but this application was declined.

Now I appreciate why Miss G might have wanted to refinance the sum she owed VWFS and that she would have been disappointed when this application was declined. But I'm satisfied that this decision was one VWFS was entitled to make and one that it would be neither fair nor reasonable for me to interfere with.

June 2023 to August 2024

Miss G submits that between June 2023 and August 2024 VWFS failed to treat her fairly and reasonably, particularly given the state of her health and her financial position.

In considering whether VWFS treated Miss G fairly and reasonably between June 2023 and August 2024 I need to have regard to the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and (where appropriate) what I consider to have been good industry practice at the relevant time. This includes, amongst other things, having regard to VWFS's regulatory obligations under the Consumer Credit Sourcebook ("CONC").

CONC requires a firm (amongst other things) to treat customers in default or in arrears difficulties with forbearance and due consideration.

Now I appreciate Miss G doesn't agree, but I'm satisfied that between June 2023 and August 2024 VWFS' met its obligations under the various regulations its bound by. I say this given:

- that between June 2023 and August 2024 VWFS didn't seek recovery of the car from Miss G
- that between June 2023 and August 2024 VWFS allowed Miss G continued use of the car, usage that has exceeded what is allowed for under the agreement without a mileage charge being payable
- that between June 2023 and August 2024 VWFS has allowed Miss G to make payments as and when she felt she could afford to
- what VWFS has, as I understand it, reported to credit reference agencies which doesn't appear to include any late payment markers or a note of the account being in default
- it's offer, in December 2023, to allow the car to be simply returned with nothing further to pay

I note that Miss G says that VWFS has refused to accept payments from her since February 2024.

Now I can't say for certain that VWFS has refused further payments from Miss G since February 2024. But without documentary evidence in support of such a submission I've to say that I don't find such a submission particularly plausible or persuasive. Put another way, I see no reason, given that Miss G is still in possession of the car and making use of it, why VWFS would refuse further payments from her. But even if I'm wrong on this point I'm not persuaded that this constitutes grounds for me to uphold Miss G's complaint.

So in summary I'm satisfied that in the particular circumstances of this case VWFS has done nothing wrong and although it's a decision for Miss G I would suggest that she consider engaging with, or that she continues to engage with, VWFS to agree a way forward.

My final decision

My final decision is I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss G to accept or reject my decision before 6 November 2024.

Peter Cook
Ombudsman

