

The complaint

Mr P believes Volvo Car Financial Services UK Limited ("VCFS") wrongfully terminated an agreement he held with them.

What happened

In August 2022, Mr P signed a hire purchase agreement with VCFS to acquire a brand-new car in September 2022. The agreement was for 36 months, Mr P was expected to make an advance payment of £695.78, followed by 35 monthly repayments of £695.78. The total permitted mileage for the car was 30,000 (10,000 miles annually).

Mr P missed a payment and he was contacted by VCFS in November 2023 about the arrears that had accrued. Mr P missed further monthly repayments and eventually, Mr P's agreement was terminated by VCFS in February 2024. Mr P later complained to VCFS.

Mr P said he explained to VCFS that he was waiting on proceeds from a house sale, and once he received that, he would be able to repay. Mr P said he wanted VCFS to cancel the termination of the agreement and he said that he hadn't received letters sent to him about the arrears.

VCFS issued their final response in March 2024. In their response, they gave a brief timeline of attempts they made to contact Mr P regarding the arrears, between November 2023 and up to the termination of the agreement in February 2024. They explained that they sent letters, text messages and attempted to call Mr P on several occasions. And they believed they issued the termination in line with their terms and conditions.

Mr P was unhappy with the response he received from VCFS. He said he explained to them that the account would be brought up to date and he was just waiting for some funds from a property sale which was accepted. Mr P believed that it was agreed with VCFS that payment could be made late. So, Mr P referred his complaint to our service.

Our investigator didn't uphold Mr P's complaint. In summary, he said that he couldn't see anything to suggest a delay in payment was granted. He also said that VCFS made several attempts by various communication methods to contact Mr P about the arrears. And he thought VCFS acted fairly in following their processes and terminating the agreement.

Mr P disagreed with the investigator's findings. Among other things, Mr P strongly believed he was told in a call in early January 2024 that an extension for a delay in payment was granted, but our investigator, having listened to the call, didn't think there was. Mr P also didn't think VCFS made enough attempts with other forms of communication to contact him about the arrears, but this didn't change our investigator's opinion.

As Mr P disagreed with the investigator's findings, the complaint was 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.

Having done so, I'm not upholding this complaint and I'll explain why below.

If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is a fair outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as an alternative to the courts.

This complaint is about a hire agreement with VCFS which is a regulated financial product. As such, we are able to consider complaints about it.

What I need to consider is whether VCFS acted fairly and reasonably in terminating Mr P's agreement when they did.

In order for me to make that finding, I have considered the terms and conditions Mr P agreed to by signing the agreement he took out with VCFS. On the second page of the agreement, there is a large section called "*Key Information*" and within that section it outlines the default interest and other charges applicable if, for example, a payment is received late.

Section 8 of the terms and conditions is called "*Breach*". Under this section it explains that Mr P will be treated as having breached the agreement if he fails to pay any hire charges due on the due date under the agreement.

The agreement later goes on to say:

"8.2 If you are treated as having breached this agreement and you fail to comply with the default notice that we send you:

8.2.1 we can terminate this agreement;

8.2.2 we will have the right to take back the vehicle; and

8.2.3 you will have to pay immediately all sums due..."

So, I think it is clear from the terms in what circumstances VCFS may terminate the agreement and that Mr P would need to return the car.

I can see from account notes and copies of letters VCFS had provided, Mr P was in arrears by £695.98 in November 2023; and by £1,391.56 in December 2023; and at the time the Default Notice was issued, the arrears were £1,426.56.

Mr P's monthly repayments towards the agreement was around £700. So, considering things here, I'm satisfied the arrears accrued on Mr P's account was more than two monthly instalments. It follows that I'm satisfied VCFS terminated Mr P's agreement in line with its terms.

Having said that, I have also considered VCFS's requirements under the Consumer Credit Act 1974 ("CRA") as Mr P believes they didn't adhere to the correct notices in communicating his arrears to him. The CRA says under section 88 that a default notice is necessary before a creditor of a regulated agreement can terminate an agreement.

I have seen a copy of a Notice of Sums in Arrears sent to Mr P's address in December 2023. I have also seen a copy of a Default Notice sent to Mr P's address two weeks later. Within the Default Notice sent to Mr P, it says:

"Action required to Remedy Breach:- Payment of the rental arrears of £1,426.56 within 21 days of this notice."

So, I'm satisfied that the relevant default notice was sent to Mr P and the necessary time passed before his agreement was terminated.

Mr P says he didn't receive some letters VCFS say they sent. I haven't seen anything to suggest Mr P didn't receive any letters sent by VCFS. The address VCFS had on file from Mr P was his correct address. Mr P has referred to general issues being known about a third-party delivery company. However, I'm mindful that no firm evidence has been provided to show it had impacted him or his geographical area at the time letters were sent. I also think it is unlikely for several letters to have gone missing that have been sent by VCFS on various days. Furthermore, I'm mindful that VCFS attempted to contact Mr P by telephone on occasions but were unsuccessful in speaking with him. They also sent Mr P text messages so they could speak to him about his arrears. Considering everything here, I'm satisfied VCFS did enough to inform Mr P of his arrears.

Mr P also said that once he was aware of the Default Notice, he contacted and spoke to VCFS in January 2024 and they granted him an extension to repay the arrears. I have both listened to the call and have seen VCFS's call notes for the call Mr P has referred to. Among other things, the call note said:

"...only has fin diff [sic] due to awaiting sale of property. No other issues to note. Permission granted to note account"

So, considering the above, I can't see that an extension to repay was granted, and having listened to the call, I also didn't hear VCFS say that an extension had been granted to repay any arrears.

Furthermore, on 22 January 2024, VCFS had sent another letter to Mr P explaining that the Default Notice issued had expired, and that Mr P had seven days to make payment, or else the agreement will be terminated. If Mr P did think an extension had been granted, this letter would have contradicted what he thought he was told. So, I would have expected him to get in touch with VCFS after receiving this letter, rather than waiting until the agreement was terminated.

In summary, I don't think VCFS needs to do anything here.

My final decision

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 4 March 2025.

Ronesh Amin
Ombudsman