

The complaint

Ms K complains that Volkswagen Financial Services (UK) Limited (VWFS) mis-sold her a hire purchase finance agreement so the final payment is about £2,500 more than she agreed to pay with the dealership.

What happened

In November 2022 Ms K acquired a used car from a dealership. The car's cash price was £17,090. Ms K says she agreed with the dealership that she'd pay for the car by part exchanging her old car for £5,000 and making 23 monthly payments of £247.27 and a final payment of £6,402.79, without any finance loan.

Around 8 September 2023 Ms K received correspondence from VWFS saying the final payment for the car under the finance agreement would be £8,965. As that was much more than Ms K was expecting to pay she complained to VWFS and the dealership.

VWFS' final response letter to Ms K said the £8,965 final payment is correct as detailed on the hire purchase finance agreement she signed. It told Ms K that it wasn't responsible for any incorrect information provided by the dealership.

The dealership didn't respond to Ms K's complaint and VWFS said it had no response from the dealership.

Ms K complained to us. In summary she said:

- The 8 September 2023 letter was VWFS' first contact with her. She was shocked that she would have to pay a much higher final payment than she was expecting. Following the letter she asked VWFS to send the finance agreement with her signature to her but it sent an email attachment she couldn't open. Eventually the dealership was able to show her the finance agreement.
- The finance agreement is signed electronically, but it isn't her signature. She signed the vehicle order form at the dealership electronically but not a finance agreement.
- She didn't need any credit or finance loan when she acquired the car because she could have paid the full cost of the car at once. She only agreed to make the monthly payments because it was advantageous for her.
- She's been upset and frustrated by trying to resolve the issue with VWFS and the dealership. She would return the car but her family relied on it. If she has to pay the larger final payment VWFS told her that would 'ruin' her financial plans for the year and she may have to borrow money. Her worries about the situation have affected her health.

Ms K wants VWFS to: put in writing that the final payment she makes will be £6,402.79; apologise for its behaviour; pay her compensation for the worry it's caused and the time she's spent on the matter.

Our Investigator said VWFS had acted fairly in telling Ms K that the final payment is £8,965.

Ms K disagrees and wants an Ombudsman's decision. She emphasised that she didn't need credit to buy the car, she hadn't signed the finance agreement and she didn't know she had to pay any more than £6,402.79 for the final payment. Ms K also wanted to know the dealership's explanation to VWFS of how the finance agreement was signed.

Before I made a decision we asked VWFS if it had evidence that Ms K was provided with a copy of the finance agreement in November 2022 when she acquired the car and whether it was offering any interest free lending in or around 2022.

VWFS provided evidence it said supported that it had sent Ms K a copy of the finance agreement in November 2022. It said Ms K had digitally signed the finance agreement and she had provided evidence such as a driving licence and 'selfie' photo as evidence to verify the signature, so only she would be able to sign and verify with photo verification. VWFS also said 0% finance is rarely offered on used cars. It had checked its offer campaigns and hadn't found any 0% interest offers for used VW cars.

We told Ms K that VWFS had provided evidence that as part of the digital signing process for the finance agreement she'd provided a 'selfie' photo at the time in order to sign the agreement.

Ms K told us she didn't provide a 'selfie' photo and hadn't spoken to anyone at the dealership about providing one. She said VWFS or the dealership had produced a signature on the finance agreement to try to convince her and this Service that it is her signature on the agreement.

We sent Ms K the 'selfie' photo that VWFS provided and asked her to send any further comments to us by a specified date. That date has passed and we haven't received any further comment from Ms K.

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.

In considering what is fair and reasonable, I need to have regard to the relevant law and regulations, regulator's rules, guidance and standards, codes or practice and (where appropriate) what I consider to have been good industry practice at the relevant time.

I've considered all the points Ms K and VWFS have made but I'll focus on the reasons why I've made my decision and the key points which I think are relevant to the outcome of this complaint.

I'm sorry to disappoint Ms K but I've decided to not uphold this complaint. I'll explain why.

We haven't received further comment from Ms K since we sent her the 'selfie' photo that VWFS provided but I think it's reasonable for me to make a decision on the evidence that I have. The date we gave Ms K to respond has passed and the final payment is due in November 2024 so it's in both Ms K and VWFS' interests for me to make a decision now.

The agreement in this case is a regulated consumer credit agreement. As such, this Service is able to consider complaints relating to it. VWFS is the creditor in the agreement. VWFS's final response letter to Ms K said it wasn't responsible for incorrect information provided by the dealership. But under section 56 of the Consumer Credit Act 1974, a finance provider (creditor) is liable for any representations made by a supplier about the transaction

it ends up financing. In other words, VWFS is liable for anything the dealership told Ms K about the hire purchase agreement.

Ms K has asked that we send her the dealership's response to her complaint. But we haven't seen the dealership's response to her complaint, if it made any. That doesn't affect me being able to make a decision as VWFS is responsible for Ms K's complaint.

Ms K's calculations for what she thinks the final payment for the car should be don't take into account the interest payable on the credit VWFS gave her under the finance agreement. I've noted that Ms K has said she didn't need to take out any credit through a finance agreement because she had enough money to buy the car outright. But I have to consider all the evidence when deciding whether VWFS has acted fairly and reasonably.

I've seen the vehicle order form that Ms K signed electronically when she acquired the car. The form set out the cash price of the car, the deposit from Ms K and says in bold text 'balance due from finance company £12,090'.

The finance agreement is also signed electronically. Ms K disputes that it's her signature on that document. That signature is also on a security verification document. VWFS have told us that when Ms K digitally signed the finance agreement she provided evidence to verify the signature so only she would be able to sign with the photo verification.

We've sent Ms K the 'selfie' photo VWFS provided of the person who verified the signature for her comment but we haven't received a response. On the evidence I have I think VWFS can reasonably understand Ms K signed the finance agreement.

The finance agreement sets out the details of the car's cash price of £17,090, the deposit of £5,000, the amount of credit of £12,090 and the percentage interest rate a year. The agreement also states that the total amount payable is £19,652.21, with 23 monthly payments of £247.27 and the final payment of £8,955 plus an option to purchase fee of £10. I think the document is clear about the money that's payable under the finance agreement, which includes interest payments and the final payment VWFS says Ms K will need to pay. Just before the signature on the finance agreement there's a declaration that includes confirmation that Ms K agreed to be legally bound by the terms of the agreement.

I've considered the possibility that the dealership may have said Ms K could have the car with 0% finance, even if she signed a financial agreement clearly saying otherwise. But VWFS can find no record of a campaign of allowing 0% finance on used cars in or around 2022. So I think it's more likely than not that the dealership didn't offer Ms K 0% finance for this car.

VWFS has also sent us evidence that in November 2022, when Ms K acquired the car, it sent her the 'welcome letter' for the finance agreement and that the letter was resent in September 2023. I'm satisfied there is evidence that at the time Ms K acquired the car she was sent information about the finance agreement and that she would need to make a final payment of £8,965.

I understand Ms K has been worried about the situation and she's been frustrated that VWFS hasn't accepted that she needs to only pay £6,402.79. But I'm satisfied VWFS has acted fairly and reasonably in telling Ms K that she needs to make a final payment of £8,965 (which includes the £10 option to purchase fee) for the car. This means that VWFS doesn't have to accept the lower amount of £6,402.79 for the car as Ms K has requested.

In the circumstances I can't fairly say that VWFS needs to pay Ms K compensation for her distress and inconvenience.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms K to accept or reject my decision before 11 November 2024.

Nicola Sisk
Ombudsman