

The complaint

Mr G is unhappy about the way Volkswagen Financial Services (UK) Limited (VWFS) have managed his finance agreement.

What happened

Mr G took receipt of a car in August 2020. He financed the deal through a hire purchase agreement with VWFS.

VWFS terminated the agreement in August 2024 and in late August 2024 they responded to a complaint Mr G referred to them. They explained that he had missed 24 payments towards his loan and was over £11,000 in arrears. They didn't agree with Mr G that they had received any letters from him to explain he was willing to pay, and while they understood he was unhappy they had appointed debt collectors to recover the debt and the car, they didn't think they'd been unreasonable to do so.

Mr G referred his complaint to this service in October 2024. He said VWFS hadn't responded to several letters he sent them or to a subject access request he'd made to them. He didn't think they'd been supportive of his mental well-being, and he wanted them to freeze payments and allow him to keep his car.

Our investigator didn't think VWFS had been unreasonable to default and terminate the agreement, but he did think they should have defaulted it earlier, in August 2022 when Mr G was six months in arrears. He noted that they had failed to respond to some letters that Mr G had sent them, but he didn't think that prevented Mr G from making payments towards his account or that there was cause to award any compensation in the circumstances. He noted Mr G's concerns about the failed subject access request, but he couldn't see that issue had been referred to VWFS yet and he explained Mr G would need to do that before this service could consider any subsequent escalation.

VWFS agreed to back date the default but wanted to check Mr G's address first as they explained their previous letters had been returned labelled "not known at this address". Mr G didn't agree with the investigator. He explained that he was willing to make an "initial payment" as a demonstration of his commitment to resolving the matter. Our investigator put that offer to VWFS but as they haven't replied and as Mr G disagrees with the investigator's decision, his complaint has been passed to me, an ombudsman, to make a 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.

I know it will disappoint Mr G, but I'm not upholding this complaint. I'll explain why.

Where the information I've got is incomplete, unclear, or contradictory, as some of it is here, I have to base my decision on the balance of probabilities.

I've read and considered the whole file, but I'll concentrate my comments 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.

Mr G acquired his car under a hire purchase agreement. This is a regulated consumer credit agreement and as a result our service is able to look into complaints about it.

Were VWFS unreasonable to terminate the agreement?

The terms of Mr G's agreement with VWFS explained that:

"2.5 Missing payments could have severe consequences and make obtaining credit more difficult. It may lead to us serving a default notice on you, on the expiry of which we may terminate the agreement, with the consequences set out in clause 10. We may in addition take legal action against you. If you still fail to pay us any outstanding monies following judgment against you for those monies, we may apply to the court for a charging order over your property and subsequently apply to the court for its sale."

By the time the agreement was terminated Mr G was over £11,000 in arrears and I can't see that any of the communication he sent would support the view he was likely, or willing, to recover the arrears or to make sustainable payments towards the agreement.

VWFS had sent a default notice in May 2024 in which they explained that if arrears weren't paid they would seek to terminate the agreement and recover costs, and when they received no meaningful response or payment they terminated the agreement in August of that year. Mr G had written to them on a couple of occasions to request proof of where the funds came from and by that it seems to me that he wanted a copy of the executed agreement. I don't think that suggested Mr G was likely, or willing, to recover the arrears or to make sustainable payments towards the agreement.

Were VWFS fair to default the agreement when they did?

Guidance issued by the Information Commissioners Office (ICO) says that they'd usually expect an agreement to be defaulted when it was at least three months in arrears and no later than when it was six months in arrears. Mr G was six months in arrears by August 2022 and I think that's when it should have been clear to VWFS that he was unlikely to be in a position to sustainably afford repayments against the debt. I think VWFS should, therefore, have defaulted the agreement in August 2022 and have reported it as such to Mr G's credit file. They'll need to put that right. The change will mean that the default is wiped from Mr G's credit file earlier than it would otherwise have been. Defaults remain on credit files for six years.

VWFS's responses to Mr G's letters and their communication of arrears

VWFS didn't respond to letters that Mr G sent to them, and I think Mr G could have expected them to do so. But while communication of arrears stopped for a period, VWFS did communicate the amount of arrears in the annual statement they sent to Mr G, and they sent adequate notification and tried to call Mr G before they eventually terminated the account. Letters were sent to the same address that we hold on file for Mr G so there seems no reason for them to have been returned to sender. Mr G may wish to check with the postal service to ensure future communication is received. While I think VWFS's communication could have been better, I don't think that merits an award of compensation here. I'm not persuaded that Mr G was financially disadvantaged as a result of that poor communication or that it prevented him from making payments towards the arrears on his account.

Were VWFS fair to appoint debt collectors?

The terms of Mr G's agreement with VWFS allowed them to transfer all or any of their rights. I don't, therefore, think they were unfair to pass the collection of the debt on to a third party.

The Subject Access Request

Mr G is unhappy that VWFS haven't responded to his request, but I can't see this has been considered by VWFS yet, and they'll need to be allowed to do that before this service or the ICO can look into it.

My final decision

For the reasons I've given above, I uphold this complaint in part and tell Volkswagen Financial Services (UK) Limited to back date the default to August 2022 and amend Mr G's credit file to illustrate that.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 13 March 2025.

Phillip McMahon
Ombudsman