

complaint

Mr C complains that Volkswagen Financial Services (UK) Limited won't compensate him for ending his hire purchase agreement and that it won't remove the adverse information that it's recorded on his credit file. Mr C has also made a complaint about his bank – but that complaint's being dealt with separately.

background

A used car was supplied to Mr C under a hire purchase agreement with Volkswagen Financial Services that he signed in August 2014. His direct debit was cancelled by his bank because there wasn't enough money in his account to pay the direct debit in August and September 2015. The payments due under the hire purchase agreement weren't made so Volkswagen Financial Services sent a default notice to Mr C in January 2016 but he cleared the arrears later that month. But the required monthly payments then weren't made and arrears notices were sent to Mr C. He was sent another default notice in May 2016 and the account was defaulted in September 2016. Volkswagen Financial Services sent a termination notice to him in December 2016 and it obtained a judgment for delivery of the car in April 2017. Mr C complained to his bank and to Volkswagen Financial Services but he wasn't satisfied with their responses so he complained to this service. His complaint about his bank has been dealt with separately and the adjudicator didn't recommend that it should be upheld.

A different adjudicator considered his complaint about Volkswagen Financial Services – and she didn't recommend that it should be upheld. She said that Mr C cleared the arrears on his account in January 2016 after he'd received a default notice – so she was satisfied that he was aware that his payments weren't being collected by direct debit. And she didn't think it was unreasonable for Mr C to have made other payments until the matter was resolved. She was satisfied that Mr C could've prevented the September 2016 default as he knew he had payment issues. And although Mr C's financial situation was difficult, she thought that Volkswagen Financial Services had acted fairly and reasonably given the circumstances. It agreed to an arrangement to pay to clear the arrears but it wasn't maintained. It told Mr C about the default process and that it would begin if he broke any arrangement to pay. And it applied for, and got, a court order to repossess the car. She said that she couldn't reverse the court's order. And she couldn't see any error by Volkswagen Financial Services in the information that it had recorded on his credit file – so she couldn't recommend that it be removed.

Mr C has asked for his complaint to be considered by an ombudsman. He says, in summary, that:

- his phone conversations with Volkswagen Financial Services haven't been fully considered;
- he contacted it about the problems with his direct debit but was told that his direct debit was active;
- it declined his full settlement offer in December 2016;
- it has recorded inaccurate information on his credit file; and
- his bank cancelled his direct debit but Volkswagen Financial Services hasn't been able to evidence its actions.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Mr C accepts that his direct debits couldn't be paid to Volkswagen Financial Services in August and September 2015 because there wasn't enough money in his account. And he now understands that his bank then cancelled his direct debit as it was entitled to do which led to arrears on his account with Volkswagen Financial Services. It sent him a default notice in January 2016 because it hadn't received the monthly payments due from Mr C. He paid the arrears but I consider that he should've been aware at that stage that there were issues with his direct debit. He says that he was told that the direct debit was active – but Mr C would've been able to see from his bank statements that the direct debit wasn't being paid. He was also sent arrears notices and further default notices by Volkswagen Financial Services.

Mr C had agreed to make monthly payments to Volkswagen Financial Services under the hire purchase agreement. So I consider that it was his obligation to make sure that the required payment was made each month. And if the direct debit hadn't been paid, I consider that he should've taken alternative steps to make sure that Volkswagen Financial Services received the money to which it was entitled.

Because of Mr C's repeated failures to pay the monthly payment when it became due and because it had sent at least three default notices to Mr C, Volkswagen Financial Services decided to end the agreement. It sent Mr C a termination notice and it obtained a court judgment for delivery of the car. I'm not persuaded that there's enough evidence to show that Volkswagen Financial Services acted incorrectly when it terminated the agreement. I consider that the information that it's recorded on Mr C's credit file is a true and accurate record of his account. So I find that it wouldn't be fair or reasonable for me to require Volkswagen Financial Services to pay any compensation to Mr C, to remove any information from his credit file, or to take any other action in response to his complaint. And I'm unable to interfere with the court's judgment for possession of his car.

Mr C says that Volkswagen Financial Services has kept incorrect details about his direct debit – which breaches his data protection. I'm not persuaded that there's been a data protection breach in these circumstances. But if Mr C wants to complain about a data protection breach he should contact the Information Commissioner's Office as it has responsibility for such matters.

my final decision

For these reasons, my decision is that I don't uphold Mr C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 21 August 2017.

Jarrold Hastings
ombudsman