

complaint

Mr L complains that Volkswagen Financial Services (UK) Limited, trading as Audi Financial Services, has terminated the hire purchase agreement under which a car was supplied to him.

background

A new car was supplied to Mr L under a hire purchase agreement with Audi Financial Services that he electronically signed in September 2018. He agreed to make 48 monthly payments of £499.42 for the car. He made the first payment in October 2018 but no payment was made between November 2018 and March 2019 so Audi Financial Services issued a default notice to him in April 2019 and terminated the agreement in May 2019.

Mr L complained to Audi Financial Services but it said that the agreement had been terminated fairly. He wasn't satisfied with its response so complained to this service.

An adjudicator recommended in July 2019 that this complaint should be upheld. Audi Financial Services responded to the adjudicator's recommendation and its response was considered by another adjudicator. That adjudicator also recommended that this complaint should be upheld and said in September 2019 that:

- it was Audi Financial Services and the dealer who didn't communicate with each other about Mr L's change to his direct debit which resulted in the arrears and defaults – and Mr L can't be blamed for that;
- the April 2019 payment failed because Audi Financial Services had incorrectly advised that the payment could be taken from a bank account for which Mr L had provided details; and
- Mr L didn't do anything to cause the agreement to be terminated.

He recommended that: the agreement should be restored; the arrears and default situation should be reversed; Mr L should pay the outstanding balance to date and the new direct debit should be set up; any adverse information should be removed from Mr L's credit file; and he should be given £250 compensation for distress and inconvenience.

Audi Financial Services hasn't responded to the adjudicator's recommendation.

my findings

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

The first payment under the hire purchase agreement was made in October 2018 without any issue. Mr L then provided the dealer with new direct debit details. That direct debit wasn't set up correctly so the payments due from November 2018 to March 2019 weren't collected. Mr L was responsible for making those payments and I consider that it would be reasonable to expect him to have noticed that the payments weren't being made – but he's explained why he didn't notice that the payments hadn't been made.

Audi Financial Services didn't contact Mr L about the missed payments until April 2019 and it issued a default notice to him the next day. The payment due in April 2019 failed because Audi Financial Services accepts that it incorrectly advised Mr L that the payment could be

taken from a bank account for which Mr L had provided details. The agreement was terminated in May 2019 and a debt collection agency was instructed to collect the amount outstanding from Mr L.

I consider that the error in setting up the direct debit was made by the dealer and that it would be reasonable to expect Audi Financial Services to have contacted Mr L about the missed payments sooner than it did. I don't consider that it was reasonable for it to issue a default notice to Mr L the day after it had contacted him about the missed payments and it accepts that it then incorrectly advised him that the payment could be taken from a bank account for which he'd provided details.

It's clear that payments have been missed but Mr L says that he will make those payments. I consider that more of the responsibility for the missed payments lies with Audi Financial Services and the dealer. So I don't consider that it's fair or reasonable in these circumstances for Audi Financial Services to have terminated the agreement.

I find that it would be fair and reasonable for the agreement to be reinstated and for an affordable repayment arrangement for the missed payments to be agreed. I also consider that it would be fair and reasonable for Audi Financial Services to remove any adverse information about the agreement from Mr L's credit file.

These events have clearly caused distress and inconvenience to Mr L. I find that it would be fair and reasonable for Audi Financial Services to pay him £250 to compensate him for that distress and inconvenience.

my final decision

For these reasons, my decision is that I uphold Mr L's complaint and I order Volkswagen Financial Services (UK) Limited, trading as Audi Financial Services, to:

1. Reinstate the hire purchase agreement.
2. Try to agree an affordable repayment arrangement with Mr L for the amount that he owes it under the agreement.
3. Remove any adverse information about the agreement from Mr L's credit file.
4. Pay £250 to Mr L to compensate him for the distress and inconvenience that he's been caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 2 July 2020.

Jarrold Hastings
ombudsman