

The complaint

Mr F complains that Volkswagen Financial Services (UK) Limited ("VWFS") gave him incorrect financial statements when he was in arrears with his agreement with them.

What happened

Mr F acquired a car using a hire purchase agreement with VWFS in July 2020.

Mr F said he attempted to reject the vehicle in November 2020 and at that time had left the car at the supplying dealership. I will not comment further on Mr F's intention to reject the car in November 2020 as our service has already explained in a separate complaint that we are unable to look into this.

Mr F stopped making payments under the agreement from January 2021. The car was eventually recovered by VWFS and sold at auction.

Mr F fell into arrears with his agreement. VWFS sent Mr F Notice of Sums In Arrears ("NOSIA") letters to inform him of the arrears amount and actions they would take if payment wasn't made by a certain deadline.

Mr F said that the NOSIA letters he received were incorrect. He said out of approximately 12 documents he received, only 1 of them perhaps was accurate. Mr F also said inaccurate information was reported to his credit file and was unhappy that VWFS had not informed him that the car was sold and what the sale proceeds from it were. Mr F also said that he and VWFS had instructed solicitors to try to resolve this issue.

Mr F complained to VWFS and they provided him their final response in January 2023. Within it they said, among other things, that Mr F had the opportunity to contact them when each NOSIA was sent if he felt they were inaccurate, but they couldn't find a record of any contact made by him regarding the letters. They said it was a legal requirement to send these NOSIA letters and it reflected the various debits/credits which were recorded on their systems. VWFS also said in the absence of payment made to them, following the NOSIA letters, a Notice of Default was issued for the arrears. And due to the lack of remedial action the agreement was terminated and was reflected as a default on Mr F's credit file. VWFS went on to explain how much the car sold for at auction and that the net proceeds of the sale was credited against the sums outstanding on the agreement. VWFS confirmed the total outstanding balance to Mr F.

Mr F also told our service he wasn't given the option to take the car back when he left it at the supplying dealership.

VWFS told our service that the annual statement issued to Mr F in June 2022 was incorrect, however the correct balance owed on the agreement was confirmed to Mr F in their arrears letters.

Our investigator issued her view, not upholding the complaint. In summary, she said she had seen correspondence from VWFS advising Mr F that he needed to collect the car from the

supplying dealership and saw copies of arrears letters sent to him. So she couldn't find VWFS to have treated Mr F unfairly by repossessing the car and terminating the agreement after Mr F stopped making payments towards it and also didn't collect the car from the dealership. As Mr F stopped making payments, the investigator found that VWFS were within their rights as a lender to record accurately the missed payments on Mr F's credit file. She also acknowledged inaccuracies in statements VWFS sent to Mr F, but said the correct outstanding balance was confirmed to him in arrears letters.

Mr F disagreed with the investigator's findings. And so the complaint has been 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.

I'm aware I've summarised this complaint very briefly, in less detail than has been provided, and largely in my own words. No discourtesy is intended by this. Instead, I've focussed on what I think is at the heart of the matter here. Namely, did VWFS treat Mr F unfairly in the way they communicated the arrears accrued on his account to him.

If there's something I've not mentioned, I haven't ignored it. 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 a free alternative to the courts.

The case is about a hire purchase agreement in Mr F's name taken out with VWFS which is a regulated financial product. As such, we are able to consider complaints about it.

The terms of the agreement Mr F signed explain his obligations to make repayments on the date set and actions that may be taken if repayments aren't made. It explains how missing payments could have severe consequences and may lead to VWFS serving a default notice on Mr F. It also explains how the car must be kept in Mr F's possession.

I'm satisfied the terms are clear in Mr F's obligations under the agreement and the consequences if the terms are breached.

It isn't in dispute that Mr F stopped making payments towards the agreement and as a result arrears accrued. Mr F said his complaint was based on VWFS' inaccuracies in financial statements sent to him and in what he believes to be bullying behaviour. Mr F said he instructed solicitors with the aim to negotiate pragmatically with VWFS, to avoid contractual issues, among other things.

I've considered Mr F's comments carefully here. It's unfortunate the relationship between Mr F and VWFS had broken down to a point where both parties felt the need to instruct solicitors. And I appreciate Mr F's intention was to negotiate a pragmatic approach to resolving the issue for both parties. But I'm also mindful that it was VWFS' choice whether they wanted to pursue this matter in a different way to those set out in the terms of the agreement Mr F had signed. Ultimately, by Mr F not keeping up with payments and arrears accruing on the agreement, Mr F was in breach of it. And as per the terms in the agreement, VWFS were within their right to repossess the car and terminate the agreement.

I have seen copies of NOSIA letters and financial statements that were sent to Mr F. I accept that a financial statement sent to Mr F had an incorrect outstanding balance on it. But I'm also mindful that regular NOSIA letters sent to Mr F recorded the accurate outstanding balance. Mr F also stopped making payments from January 2021. And I can't see anything to suggest that, even if accurate information was given on all occasions, Mr F would have begun to make payments owed as several letters had passed before Mr F raised a complaint about this issue. Mr F still had the opportunity to query the outstanding balance or make payment in relation to it after receiving the NOSIA letter, but hadn't. The letters and NOSIA letters sent to Mr F were also clear on who to contact if Mr F questioned the accuracy of the outstanding balance remaining.

It's important that credit files are an accurate record of a person's financial history. This is because other lenders may rely on that information when making credit decisions. So it's a lenders obligation to record information accurately if there are arrears and outstanding payments on an account. As there were arrears on Mr F's account, I can't say VWFS have acted unfairly by reporting the information they have to credit reference agencies.

Mr F says he wasn't given the option to take the car back and pay off his arrears when he left it at a supplying dealership. VWFS has supplied a copy of a letter that was sent to Mr F in January 2021. It said:

"...you will need to collect your vehicle from... Can I ask that you contact the Service Manager at... to advise of a collection date..."

I'm satisfied from what I have seen that Mr F had the opportunity to collect the car but chose not to. As the car wasn't in Mr F's possession and payments weren't being made towards the agreement, I don't think VWFS had done anything wrong in recovering it, terminating the agreement and selling the car.

Overall, I'm satisfied VWFS don't need to do anything in this instance.

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 F to accept or reject my decision before 7 September 2023.

Ronesh Amin
Ombudsman