

## **The complaint**

Mrs H complains about the amount she was required to pay to FCE Bank Plc trading as Ford Credit (FCE) when she voluntarily terminated her car finance agreement.

## **What happened**

In April 2018, Mrs H entered into a 39 month personal contract purchase (PCP) agreement with FCE for a new car. She was required to pay monthly instalments of £381 plus a final optional payment to of £8,231.

Around April 2020 Mrs H contacted FCE to explain she was experiencing financial hardship due to the Covid-19 pandemic. FCE agreed to defer her payments. In total, five instalments were deferred – April, May, June, July and September 2020.

As her financial circumstances hadn't improved, in February 2021, she asked about voluntarily terminating (VT) the agreement. According to FCE, she was told she would need to pay £1,445 to reach the 50% liability to VT.

On 20 April 2021, Mrs H had a further conversation with FCE about VT and how much she was required to pay to do so and she was advised how to return the VT confirmation letter. Mrs H returned the car on or around 22 April 2021.

The car was inspected in line with FCE's return process. Thereafter, they said she had to pay £1,906 for the five missed payments and £301 in order to reach the 50% liability to VT. Additionally, she was told she would have to pay £271 for excess mileage.

Mrs H complained stating she was never told she had to pay the five missed payments and she was of the belief she only had £300 left to pay to reach the 50% liability. FCE offered to cancel the VT and return the car to allow her to consider other options but she said she didn't want to do so as she could no longer afford the car.

FCE said although they agreed to a payment deferral this didn't amend the terms of the agreement and the five missed payments were added to the end of the contract. They said she was advised to wait for the exact figures for the VT by their specialist team. They accepted their advisor could've been clearer about what was owed in order to VT during the conversation in April 2021 and offered £100 compensation as a gesture of goodwill.

Unhappy with their response, Mrs H referred the complaint to our service. As part of the investigator's review, FCE agreed to remove the excess mileage charge. However the investigator believed FCE had acted fairly in relation to the VT.

Mrs H disagreed and maintained her position. In addition she said her online FCE account didn't make reference to the account being in arrears due to the deferred months and she was never told she had to pay this in order to VT.

As an agreement couldn't be reached, the complaint has been referred 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 believe FCE have done enough to put things right, I'll explain.

At this point, I wish to stress that I believe FCE acted fairly and in line with the financial regulator's guidance relating to those impacted by the Covid-19 pandemic. In this case, Mrs H advised she had been working in the travel industry and was furloughed due to the pandemic. As a result, she experienced financial hardship. Given these circumstances, I'm satisfied the regulator's guidance applied to her so I find FCE acted fairly and reasonably by agreeing to defer payments. Based on the guidelines these deferred payments weren't to be reported as arrears on an individual's credit file but instead they were deferred to be paid at a later date. In this case, FCE had agreed to add it to the end of the agreement.

However based on FCA's contact notes, I'm not persuaded this was made clear to Mrs H and the impact it would have on payments moving forward. However I do recognise that FCE would've quickly had to put measures in place to support their consumers impacted by the pandemic.

Nevertheless, I find this complaint is centred on what Mrs H was told about how much she owed in order to VT the agreement. The terms of the agreement say:

*You have a right to end this agreement. To do so, you should write to the person you make your payments to. They will then be entitled to the return of the goods and to half the total amount payable under this agreement, that is £11,361.53 (eleven thousand three hundred and sixty one pounds and fifty three pence). If you have already paid at least this amount plus any overdue instalments, and have taken reasonable care of the goods, you will not have to pay any more.*

I wish to explain VT allows the consumer to return the car during the term of the agreement but they must pay at least 50% of the total agreement amount plus any arrears or payments they've missed up to that point plus any other sums due before termination. A common misconception is that VT can't take place until the 50% liability is paid or it must be paid in a lump sum before they VT can take place. However this is incorrect. After returning the car, an individual will still owe any arrears and any other sums incurred prior to VT.

In this case, Mrs H had missed five payments as they were deferred so I consider these to be overdue instalments mentioned in the above term. They had become payable but deferred to a later date.

Mrs H said before VT'ing the agreement, she had a number of conversations with FCE and having reviewed their contact notes, I can see this was the case. She first enquired about VT in September 2019 and there were later discussions in April 2020, February 2021 and April 2021. The two latter calls are important as it would appear following them she decided to VT. Ideally I would've been provided with a copy of these call recordings but FCE have advised they're no longer available due to data retention policies.

Both Mrs H and FCE accept during the call in February 2021 she was told she would have to pay £1,445 to VT. Mrs H calculated at a rate of paying the monthly instalments of £381, it would take her around three months to reach the 50% liability. She said she called again in March 2021 and was advised there was almost £700 left to pay. Although there are no call notes to reflect what was discussed during the call, there is an entry on FCE's system notes which suggest this call did take place and on balance I believe she was told this. However it

would appear Mrs H was given incorrect information as these figures didn't take into account the five missed payments in 2020.

For the call on 20 April 2021, Mrs H said she told FCE she wanted to VT and she had sent a letter confirming the same. FCE's contact note says:

*"Customer phoned yesterday enquiring on the VT prices, I called her back this morning to confirm we have got their request but the wet signature is still required on their cover letter, cust will re-send asap"*

The notes are brief in nature so it's hard to say with any certainty what was discussed but both parties accept Mrs H was told not to pay what she believed was the final amount yet as a letter would be sent confirming the exact amount outstanding. However she was told to send a letter with a wet signature outlining her intentions to VT.

From my understanding, Mrs H returned the car on 22 April 2021. On this same day, FCE sent her a letter which outlined the VT process, including how to return the car etc. It also said the following:

*"Your current minimum liability, calculated at the date of this letter, is £2,208.65. This amount includes any arrears that may have accrued and any amount which you must pay, in order to bring the account up to fifty per cent (50%) of the Total Amount Payable, which is specified in your contract. Any outstanding Late Letter Fee and unpaid PPP Instalments, if applicable, are also due to be paid to us. You will remain liable for any payments which have not been made to your account, including those recalled by your bank. This also includes any Deferral Payment that you requested to be added to the end of your contract."*

The letter is worded in such a way that it would appear this would usually be sent to consumers prior to them agreeing to VT the agreement. However in this case Mrs H had already returned the car that day and confirmed she wanted to VT. FCE had advised Mrs H to wait for this letter to confirm what was owed. While I understand Mrs H had relied on the information given in February and April's call, I believe it would've been reasonable for her to have waited for this letter as FCE had advised. It's worth noting there was only a matter of two days from the call on 20 April to when this VT letter with exact figures was sent.

Having considered the statement of account it appears Mrs H has paid half the agreement amount but it also showed five missed payments. As these payments were due prior to the VT, they are overdue payments meaning they must be paid to VT. Based on this evidence, I'm satisfied FCE has correctly calculated the amount to VT.

Overall, I believe Mrs H was initially given incorrect information by FCE during the calls about what was owed to VT. They should've made it clear to her that she was required to pay the 50% liability plus the five overdue instalments. Even though I find that to be the case, I'm not persuaded had they given the correct information, this would've made a difference. I say this because Mrs H had made it clear she didn't want to keep the car due to her financial circumstances. Equally when FCE gave her the option to cancel the VT and take back the car so she could consider other options, she decided not to do so. FCE has offered £100 as compensation based on the unclear information given and I believe this is fair in the circumstances.

I'm aware Mrs H has said she also had a second agreement with FCE and that was VT'd around the same time as this car and whenever she spoke to FCE it concerned both agreements. She said they agreed to write off the outstanding balance on the second agreement so she can't understand why they wouldn't do so in this case. If this is the case, I can understand why she feels this way. FCE has told us the circumstances were different for that agreement so their decision was different. I must point out ultimately it was FCE's

decision to write off that balance and given there is nothing in the terms to say they should do so, it would appear the decision was made at their discretion. In any event, as that is a separate agreement and not subject to this complaint, it wouldn't be appropriate for me to provide any further comments about this.

### *Excess mileage*

As part of this investigation, FCE has agreed to remove the excess mileage charge of £271. In the circumstances, I believe this to be fair and reasonable so I won't comment on this further.

### Summary

Overall, I believe FCE should've provided clearer information during the calls about what was required for Mrs H to pay in order to VT. They've offered £100 as compensation and I think this is fair in the circumstances. As per the terms of the agreement, I'm satisfied they've calculated the amount to VT correctly and that amount is owed to them so it wouldn't be reasonable to ask them to waive the outstanding balance.

I would like to remind FCE if Mrs H is still experiencing financial hardship and will have difficulty paying this outstanding amount, I expect them to treat her with forbearance and due consideration as required by CONC.

### **My final decision**

For the reasons set out above, I've decided to partially uphold Mrs H's complaint.

To put things right, FCE Bank Plc trading as Ford Credit must:

- Remove the excess mileage fee from the outstanding balance owed by Mrs H;
- Pay £100 compensation for the trouble and upset caused to Mrs H (if not paid already)

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 7 July 2022.

Simona Charles  
**Ombudsman**