

The complaint

Mrs H complains about the way in which Volkswagen Financial Services (UK) Limited (“VWFS”) handled her request to voluntarily terminate her agreement.

What happened

In March 2022 Mrs H was supplied with a car and entered into a hire purchase agreement with VWFS. The cash price of the car was £19,695. Mrs H paid a deposit of £750, and the remainder was financed. The monthly payments were £426.48 with a term of 36 months, with a final payment of £7,357.50 if Mrs H wished to keep the car.

The agreement allowed voluntary termination at any time, provided that 50% of the total due under the agreement (£11,735.39) was paid.

On 20 April 2023 Mrs H’s husband (on her behalf and with her permission) contacted VWFS to request to voluntarily terminate the agreement. VWFS generated the settlement figure and emailed a voluntary termination form to her husband.

When returning the form, Mrs H’s husband didn’t return it to the requested email address but instead replied to the originating email.

Mrs H waited to hear from VWFS, assuming that her request to voluntarily terminate was being processed. She didn’t make any further payments under the agreement. VWFS sent a notice of sums in arrears on 26 May 2023.

In June 2023 Mrs H received a call from the arrears department advising her that she was two months in arrears with her payments. She was shocked by this and asked to be put through to customer services, who advised her that there was no record of her having voluntarily terminated the agreement. Mrs H told customer services where the form had been returned to, VWFS advised Mrs H that the email address she had returned the form to wasn’t the correct email address. Customer services advised Mrs H of the correct email address to return the form to and asked her to forward the form to the correct department.

Mrs H raised a complaint with VWFS. She said she was unhappy that she was being chased for arrears due to errors in the processing of her request for voluntary termination.

VWFS didn’t uphold the complaint. It said the settlement figure had been provided to Mrs H’s husband when he called in April. Mrs H said she had complained about the arrears, not the settlement figure, and that she wasn’t aware of any settlement figure. Mrs H asked to stop the voluntary termination but this wasn’t possible it had already completed.

Mrs H wrote to VWFS asking to settle the agreement for £2000. She said she was unable to work due to health reasons and that her financial situation was unmanageable. VWFS didn’t agree and took steps to arrange collection of the car.

Mrs H asked VWFS to set up a payment plan for the termination shortfall. VWFS hasn’t agreed a payment plan with Mrs H. It said that because she wasn’t in employment it didn’t

think it was fair to arrange a payment plan as she had no consistent income. VWFS passed the debt to a third party for collection. VWFS advised Mrs H that the voluntary termination shortfall would report as adverse information on her credit file until it was paid.

Mrs H was unhappy with VWFS's response and brought her complaint to this service.

Our investigator didn't uphold the complaint. She said that although there had been some issues around the voluntary termination form, the delay hadn't made any difference to the shortfall amount. The investigator said she appreciated that Mrs H wanted to enter into a payment plan with VWFS but said that VWFS needed to be satisfied that any plan was sustainable, which it wasn't able to do in the light of Mrs H's current financial circumstances.

Mrs H didn't agree. She said she wasn't complaining about the delay in her voluntary termination form being processed but felt that she'd been prejudiced financially by the delay in VWFS handling her complaint. Mrs H said that if VWFS had cancelled her voluntary termination she would have been able to retain ownership of the car and sell it to a third party so that she wouldn't have been liable for the shortfall.

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've looked at what happened when Mrs H requested to voluntarily terminate the agreement. Mrs H sent the completed voluntary termination form back to the wrong email address. This caused some delay in the processing of the voluntary termination. I can also see that Mrs H stopped making monthly payments when she sent back her voluntary termination form, which resulted in arrears accruing on the account.

I can't fairly hold VWFS responsible for the initial delay or the accrual of arrears. Mrs H has made some comments about it not being clear which email addresses were active or inactive, but ultimately, she acknowledges that she made an error when she returned the form.

In any event, the delay hasn't impacted on the shortfall amount. The shortfall amount as of 20 April 2023 of £5,867.63 was exactly the same in June 2023 when the voluntary termination was processed. Mrs H's debt is larger than this due to the arrears which accrued on the account as a result of her stopping monthly payments.

When an agreement is voluntarily terminated, the agreement ends earlier than the contractual date. Every consumer has the right to end their car finance agreement early under the Consumer Credit Act 1974 if they meet certain criteria. In order to be eligible for voluntary termination, consumers need to have already paid or be willing to pay 50% of the value of the contract.

In Mrs H's case, she hadn't yet paid 50% of the value of the agreement. This meant that she would be liable for the difference between what she had paid already and 50% of the value of the agreement, referred to as the voluntary termination shortfall.

Mrs H has said that she was unaware that she would be required to pay a shortfall. She says that if she had been made aware of the shortfall, she wouldn't have proceeded with the voluntary termination. She also says that when she found out about the shortfall, she tried to retract the voluntary termination but was unable to do so as it had already been processed.

VWFS has said that Mrs H's husband was provided with the shortfall figure when he called

on 20 April 2023 and requested to voluntarily terminate the agreement.

It's possible that Mrs H's husband didn't tell Mrs H about the shortfall following the call in April 2023. However, I can't fairly hold VWFS responsible for this, as it spoke to Mrs H's husband with her authority.

Mrs H has said that VWFS prejudiced her financially because of the delay in VWFS responding to her complaint. She says that if there hadn't been a delay, she would've had time to retract her request to voluntarily terminate.

I understand the point that Mrs H makes here. However, even if she had retracted her voluntary termination, it wouldn't have been possible for her to sell the car as she has suggested. This is because the agreement prohibits this. In addition, Mrs H would have been liable for the ongoing monthly payments, which she has said she wasn't able to afford. It's possible that Mrs H might have chosen to pay the settlement figure under the agreement and then sell the car, but I haven't seen any evidence that she was in a position to pay the settlement figure, or that she had arranged for a third party to do so, so I don't think this was likely. In the circumstances, I don't agree that Mrs H has been financially prejudiced.

Taking all the information into consideration, I'm unable to say that VWFS has made an error, or that it has treated Mrs H unfairly. I won't be asking VWFS to do anything further.

My final decision

My final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 12 June 2024.

Emma Davy
Ombudsman