DRN-4564073

The complaint

Mrs C is unhappy that Volkswagen Financial Services (UK) Limited trading as SEAT Financial Services ('SEAT') are chasing her for an outstanding amount under a hire purchase agreement she had with them, after telling her the agreement had been cleared.

Mrs C has been represented during the claim and complaint process by Mr A. For ease of reference, I will refer to any comments made, or any action taken, by either Mrs C or Mr A as "Mrs C" throughout the decision.

What happened

In January 2018, Mrs C was supplied with a used car through a hire purchase agreement with SEAT. She paid an advance payment of £1,100 and the agreement was for £8,242.50 over 41 months; with 40 monthly payments of £117.52 and a final payment of £3,577.50 if she wanted to keep the car.

When the agreement came to an end Mrs C wanted to keep the car, but she was unable to pay the full final payment as a single lump sum. She asked SEAT if she could refinance the final payment over 36 months and she says she was quoted a payment of £105 a month for this. SEAT processed her application, and, in August 2021, they wrote to he to let her know *"your agreement has been settled [and] we no longer hold a financial interest in the car."* Mrs C says she believed this letter meant her application to refinance the final payment was successful, and that SEAT would take the payments from her bank account.

SEAT acknowledge this letter was sent in error, that Mrs C's application to refinance the final payment was unsuccessful, and the final payment remained outstanding. They sent Mrs C arrears letters in August and September 2021, as well as annual statements in October 2021, September 2022, and August 2023, all of which showed the full final payment was still outstanding.

After receiving the August 2023 annual statement, Mrs C complained to SEAT that she'd been notified she was in arrears when she believed the refinancing for the final payment was in place. In response, SEAT apologised for the poor communication about what'd happened when the agreement came to an end, and for not advising her that her refinance application had been declined. They explained the final payment remained payable, but they offered to reduce this by £750 in resolution to her complaint.

Mrs C didn't accept SEAT's offer, and she brought her complaint to the Financial Ombudsman Service for investigation.

Our investigator said SEAT had made an error by sending Mrs C the letter in August 2021. But she thought Mrs C would've been reasonably aware that the final payment wasn't being repaid. The investigator said that Mrs C was still liable for the final payment, and that SEAT hadn't acted unreasonably by requesting this from her.

The investigator also thought SEAT's offer of £750 was reasonable in the circumstances, but she also thought that SEAT shouldn't report any adverse information on Mrs C's credit file

due to their error, and that they should treat Mrs C with forbearance and due consideration when arranging a repayment plan for the outstanding balance.

Mrs C didn't agree with the investigator. She said SEAT had an obligation to advise her they'd turned down her application to refinance the final payment, and she didn't think it was reasonable to think she was aware she still owed this to SEAT. Because of this, while she was prepared to work with SEAT to clear what she owed, she didn't think it was reasonable she was still being held liable for 80% of the final payment.

Because Mrs C didn't agree, this matter has been passed to me to make a final decision.

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've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome. Where evidence has been incomplete or contradictory, I've reached my view on the balance of probabilities – what I think is most likely to have happened given the available evidence and wider circumstances.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Mrs C was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we're able to investigate complaints about it.

The basic facts in this matter aren't disputed. When the original agreement came to an end, Mrs C knew she stull owed the final payment, and she applied to refinance this. While SEAT processed, and eventually declined, the refinance application, they failed to advise Mrs C of this. Instead, they wrote to her to let her know she had no outstanding liability.

Given this, the main point of dispute remains as to when Mrs C should've been reasonably aware the final payment wasn't being repaid.

I've seen the arrears letters SEAT sent Mrs C on 21 August and 14 September 2021. These make it clear that the final payment remains unpaid, and that Mrs C needs to take action to arrange to repay this. The annual statements dated 11 October 2021, 12 September 2022, and 12 August 2023 also make it clear that the full final payment remains outstanding, and that no payments were being made towards this.

In her comments on the investigator's view, Mrs C has implied that the only one of the above letters she received was the 12 August 2023 statement. I've seen that all these letters were sent to the same address – the address Mrs C has declared as her home address. While these letters were sent through the post, and it's possible that one of these letters may've got lost in the postal system, I find it highly unlikely that the first four of five letters, sent over a period of three years, never made it to Mrs C's address. And I think it's more likely than not that most, if not all, of these letters were received.

However, even if I accept Mrs C's assertation that she only ever received the 12 August 2023 statement, this isn't the only thing that should've alerted her that something was wrong. By asking to refinance the final payment, Mrs C was aware this was outstanding. And, when she received the letter stating there was no outstanding liability, she would've known that she hadn't paid SEAT £3,577.50. And if Mrs C believed this letter meant that the refinance

had been agreed, she would've expected the quoted £105 a month to have been going out of her bank account.

So, had Mrs C checked her bank account at any point between August 2021 and June 2023 (and I think it's reasonable to assume she would've done this) then she would've seen the payments she was expecting to go out to SEAT weren't going. And presumably her bank account balance would been hundreds of pounds more than she expected. As such, I'm satisfied that Mrs C should've been reasonably aware the final payment wasn't being repaid significantly sooner than when she complained to SEAT about this, especially as she continued to be in possession of the car they'd supplied her.

While this doesn't mitigate the error SEAT made, it does affect what I would consider to be a reasonable remedy given all the circumstances. SEAT have offered a £750 reduction in the outstanding balance, which is more than I would've recommended had no offer been made. Given this, I won't be asking them to make any further reductions.

What's more, the investigator has recommended that SEAT don't report any arrears to the credit reference agencies relating to the outstanding final payment. Neither SEAT nor Mrs C has objected to this recommendation, so it's fair and reasonable that I adopt this as part of my final decision.

Finally, I'd also like to remind SEAT of their obligations to treat Mrs C with forbearance and due consideration, if she's unable to clear the final payment by way of a single lump sum.

Putting things right

Therefore, for the reasons given, SEAT should:

- reduce the outstanding balance by the £750 they've offered; and
- remove any adverse entries relating to the final payment under this agreement from Mrs C's credit file.

My final decision

For the reasons explained, I uphold Mrs C's complaint about Volkswagen Financial Services (UK) Limited trading as SEAT Financial Services And they are to follow my directions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 21 February 2024.

Andrew Burford
Ombudsman