

## **The complaint**

Mr B complains about Volkswagen Financial Services (UK) Limited trading as Seat Financial Services' ("VWFS") actions, after he told it a change in his financial circumstances meant he may no longer be able to afford the repayments owed under his hire purchase agreement.

## **What happened**

Mr B acquired a brand new car under a hire purchase agreement with VWFS in September 2022. The car cost around £35,750. Mr B paid a deposit of £1,631. Under the agreement, Mr B was required to make 48 payments of £506.90, followed by a payment of £17,010 if he wanted to keep the car. The car was supplied by a dealership I'll refer to as "D".

In April 2023, D contacted Mr B and asked if he was looking to change the car under the hire purchase agreement. Mr B told D changes to his financial circumstances meant it was tougher to maintain the car. D told Mr B it may be too early to change the car to a cheaper model because of the outstanding negative equity. D suggested Mr B look again in 12 months.

Mr B says he had a further change to his circumstances in July 2023 and this led to it being harder for him to maintain the repayments owed under the hire purchase agreement. In December 2023, Mr B contacted VWFS, but he says it ignored him. He says D provided him with a settlement quote and he also obtained a valuation of the car, which showed the value had dropped significantly. He said he contacted the regulator for advice .

In January 2024, Mr B wrote to VWFS and explained he wanted to initiate a voluntary termination of his hire purchase agreement, without making any further payments. He said he could no longer afford to keep the car and making payments towards the car was at the expense of his living accommodation. He explained he lost his job and as a result took a lower paid job and he said his small business collapsed. He said the monthly repayments towards the car and its running costs amounted to more than half his monthly income. He said he couldn't afford to save for a deposit, or save to pay rent for new accommodation and that his rental accommodation agreement would expire in June 2024. He said this would likely result in him becoming homeless.

VWFS provided with Mr B with options to part exchange the car, sell the car privately or voluntary terminate the agreement. It said it had a team which may be able to help with a payment plan for the shortfall if he wished to go ahead with the voluntary termination. Mr B said ideally he wanted to hand the car back without making any further payments. He said he couldn't afford the settlement figure and he needed a better alternative from VWFS.

In February 2024, Mr B filled out an income and expenditure form that VWFS had provided him. VWFS reviewed this and said it noted that Mr B's circumstances had changed drastically. It said it had already provided Mr B with exit options and if Mr B voluntarily terminated his agreement, he would have a disposable income of around £200 per month to set against the shortfall. It said it could look to set up a payment arrangement, but it noted that Mr B was in arrears with other agreements. It said it would be happy to liaise with a third party to help make arrangements for Mr B to pay the arrears over a longer period of time. It also provided Mr B with independent debt advice company details.

VWFS also issued its response to Mr B's complaint in February 2024. It said it was sorry to hear of Mr B's financial difficulties and hoped to support him. VWFS provided Mr B with the option to sell the car himself and then agree a repayment plan through a new income and expenditure once the shortfall had been calculated. It said it had discussed the option of Mr B settling the agreement early but this would leave him with a shortfall of around £8,000 and there was no option for a repayment plan. VWFS said Mr B could exercise his right to voluntarily terminate the agreement, but this would leave a shortfall balance of around £11,700. It asked Mr B to contact its collections team if he wanted to discuss any of the options in more detail. It didn't uphold Mr B's complaint as it said it provided Mr B with all the relevant options for ending the agreement early.

Unhappy with this, Mr B referred his complaint to this service.

Our investigator looked into the complaint but didn't think VWFS had acted unfairly. She said Mr B's agreement wasn't yet in arrears and so, the options provided by VWFS were fair and reasonable. She also said she couldn't comment on the current value of the car as the market fluctuated.

Mr B disagreed. He said he wanted to return the car with nothing further to pay. He said VWFS didn't care about his circumstances and didn't have any intention of helping him. Mr B also said he had spoken to dealerships and VWFS about his options and his only real option was to continue paying, so he didn't face the consequences. He said he may be made homeless or jobless in the near future.

As Mr B remains in disagreement, 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.

Where evidence is incomplete, inconsistent or contradictory, I reach my view on the balance of probabilities – in other words, what I consider most likely to have happened in light of the available evidence and wider circumstances.

I've read and considered the whole file and acknowledge that Mr B has raised a number of different complaint points. I've concentrated on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it – but because I don't think I need to comment on it in order to reach what I think is the right outcome. The rules of this service allow me to do this.

The finance agreement in this case is a regulated hire purchase agreement. So our service is able to consider complaints relating to it.

I'm sorry to hear about the financial circumstances Mr B has described to this service. I understand this is an extremely difficult time for him.

What I need to decide in this case is whether VWFS acted fairly once Mr B notified it about his financial difficulties. If I don't think it has, I'll need to think what's fair, if anything, to put things right.

Mr B told VWFS in December 2023 that his financial position was bad. At that point, Mr B had kept up to date with his repayments under the hire purchase agreement. During the call, VWFS provided Mr B with options such as part exchange, voluntary termination and it provided an early settlement quote. It explained it didn't offer payment holidays but it could offer 60 days breathing space. Mr B didn't take any of these options at the time. Having considered this, whilst Mr B says VWFS ignored him, I don't agree that it did. Instead, it provided Mr B with information to help him exit his agreement.

When Mr B contacted VWFS again, it again provided him with his exit options, reviewed a completed income and expenditure form from Mr B and signposted him to independent debt

charities. I think VWFS acted fairly when Mr B told it he was in financial difficulties. I've gone on to review the options offered to Mr B by VWFS.

The Financial Conduct Authority ("FCA") sets out the rules and guidance a lender must follow where its customer is in financial difficulty. The rules and guidance are applicable to customers whose accounts fall into arrears and vulnerable customers. In this case, Mr B's account hasn't fallen into arrears, as he has continued to make the repayments owed under the agreement. This appears to have come at the expense of his other bills, as Mr B has said he prioritised making the repayments towards this agreement.

Mr B has said he would like to hand the car back to VWFS without any penalties. I understand why Mr B wishes to do this given his circumstances, but this isn't something that VWFS is obliged to offer.

The agreement can be settled early, which is explained in the hire purchase agreement and is right set out in the Consumer Credit Act 1974. If Mr B chooses this option, it would mean VWFS would apply a rebate for some of the future interest and charges. Mr B is entitled to make a partial payment or a full repayment. If he chooses a full early settlement, he would need to pay the whole amount immediately. If he chooses to make a partial lump sum payment, this may reduce the remaining monthly repayments.

The terms of the hire purchase agreement also allow Mr B to exit it early through the process of voluntary termination. This is a right which is set out in section 99 and 100 of The Consumer Credit Act 1974. Mr B's agreement states:

*"You have the right to end this agreement. To do so, you should write to the person you make your payments to. They will be entitled to the return of the goods and to half the total amount payable under this agreement, that is £21,491.10. If you have already paid at least this amount plus any overdue instalments have taken reasonable care of the goods, you will not have to pay any more."*

So, whilst the right to voluntarily terminate the hire purchase agreement can be exercised at any time during the agreement, Mr B must repay half the total amount payable under the agreement to VWFS. In this case, this leaves Mr B with an outstanding balance, as Mr B is only around two years into his agreement.

VWFS has also said that Mr B can sell the car and notes show that Mr B has enquired about selling the car privately to a dealer. However, this would also leave him with a shortfall.

Mr B may also be able to voluntarily surrender the car. This would involve VWFS taking the car back and selling the car at auction. The sale proceeds would then be deducted from the total amount payable and Mr B would be liable for the remaining amount. Due to the unpredictability of auctions, I appreciate Mr B may not wish to do this as the sale proceeds may be significantly less than he has already been offered by the dealer.

VWFS also said it could offer a 60 day breathing space to Mr B if he wishes to keep the car. Mr B may wish to accept this if he anticipates his financial circumstances may improve and he wants to keep the car.

Having considered the options that VWFS have provided, I'm satisfied that VWFS has fairly provided Mr B with the appropriate options available for him to exit the agreement and alternatively, to provide breathing space. It has also said it would be happy to arrange an affordable repayment plan with Mr B, should he choose to exercise his right to voluntary termination or should he sell the car privately. It isn't required to do this when these options are exercised, but given the circumstances I think this offer is appropriate and I consider that VWFS is acting with forbearance and due consideration. I can see that VWFS also provided Mr B with independent debt charity contact details and said it would be happy to arrange a repayment plan over a longer period of time, should it be contacted by one of the independent debt charities on behalf of Mr B. I think this is fair in all the circumstances.

If Mr B is currently in arrears under his hire purchase agreement, I would remind VWFS of its obligations to treat Mr B with forbearance and due consideration. Mr B has told us his circumstances have changed again, which I'm sorry to hear about. Should Mr B choose to exercise his right to voluntary termination or should he part exchange/sell the car privately, I would expect VWFS to periodically carry out an income and expenditure with Mr B, to ensure the suitability of any repayment plan that is agreed.

Overall, I'm satisfied that the options provided by VWFS to Mr B are fair and reasonable in all the circumstances and so it follows, that I don't think VWFS needs to do anything further.

### **My final decision**

My final decision is that I don't uphold Mr B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 6 August 2024.

Sonia Ahmed  
**Ombudsman**