

The complaint

Mr A has complained about the way Oodle Financial Services Limited (Oodle) dealt with the settlement of his finance agreement after the car he acquired under this agreement was maliciously damaged. He is also unhappy about the support he received from Oodle when he found himself in financial difficulties.

What happened

In mid-January 2020, Mr A entered into a hire purchase agreement with Oodle to acquire a car first registered in February 2013. The total amount of credit was around £5,424. The total amount payable was approximately £8,236, this included a total charge for credit of around £2,812. Mr A didn't provide an advance payment. He was required to pay the balance by one instalment of approximately £186 followed by 58 instalments, each in the sum of around £136, followed by a final instalment (including the Option to Purchase Fee of £50) in the sum of around £186.

On 9 February 2020 the car was maliciously damaged to the extent that it was written off. On 10 February 2020, Mr A informed Oodle about this and explained that his insurance was investigating the matter. On the same day Oodle emailed Mr A to inform him that the settlement figure of his finance agreement was approximately £5,691.

Mr A didn't make any payments towards his finance agreement, and in mid-February 2020, Oodle contacted Mr A to inform him that his account was in arrears. On 15 February 2020, Oodle agreed for Mr A's account to be placed on short hold as he awaited an update from his insurance company. But on 11 March 2020, Mr A told Oodle that he would not be making any payments until his insurance paid out. So Oodle resumed sending notices and reminders of the arrears on his finance agreement and resumed seeking payments from Mr A.

Mr A is unhappy that even though he kept Oodle informed that he was waiting for the settlement money from his insurance, they still kept sending him notices and reminders of the arrears on his finance agreement, and kept seeking payments from him. Also Mr A said that it was because of these constant reminders, that he decided to give Oodle access to communicate with his insurance company, but he said that this was on condition that he will always be kept informed of all the communications between the two companies. It was on 3 April 2020, that Mr A gave authority for Oodle to discuss his claim with his insurance company.

On 8 April 2020, Oodle once again reminded Mr A that he needed to be making payments towards his finance agreement as he awaited the response from his insurance company. During this conversation Mr A told Oodle that he was struggling to make his payments as he was not working, so they discussed payment arrangements, but they never reached an agreement. And about two weeks later Oodle instructed their solicitors to manage the account. The arrears at the time were around £457.

Mr A says that in August 2020, he found out that his insurance provider would be settling the insurance claim, so he called Oodle to notify them, and he requested that given the

circumstances of the incident, Oodle should write off the interest on his finance agreement. He said that he requested this as, at the time, he found himself in financial hardship because of the arson attack, but he said Oodle refused to provide him with this support. He is also unhappy because, he said, they wouldn't update information with the credit reference agencies to reflect the arson of his car as an explanation for the missing payments showing on his credit file.

Mr A was unhappy that he couldn't reach any arrangements with Oodle, which he said he found unfair, and he said he decided to tell Oodle not to talk to his insurance company any longer. So, he said, it came as a big shock to him when he received an email from Oodle telling him they have received a pay-out of around £4,310 from his insurance company. Mr A feels that by Oodle communicating with the insurance company made it more difficult for him to achieve a fair settlement figure for his car with his insurance company. He said he believes the car was worth more than the insurance company decided to pay out.

As Mr A was unhappy with Oodle's actions he brought his complaint to this service.

Our investigator thought the complaint shouldn't be upheld. She was of the opinion that, as Oodle was the legal owner of the car, they haven't breached the agreement Mr A had with them. She also thought that Oodle didn't treat Mr A unfairly as they tried to reach an agreeable repayment plan with him.

Mr A disagreed with the investigator. 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.

In considering what is fair and reasonable, I need to take into account the relevant rules, guidance, good industry practice, the law and, where appropriate, what would be considered to have been good industry practice at the relevant time.

Where evidence is unclear or in dispute, I reach my findings on the balance of probabilities – which is to say, what I consider most likely to have happened based on the evidence available and the surrounding circumstances.

I also want to acknowledge that I've summarised the events of the complaint. But I want to assure Mr A and Oodle that I've reviewed everything on file. And if I don't comment on something, it's not because I haven't considered it. It's because I've concentrated on what I think are the key issues. Our powers allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

Mr A acquired the car under a hire purchase agreement, which is a regulated consumer credit agreement. Our service can look at these sorts of agreements.

Oodle's communications with Mr A's insurance company

One of Mr A's main complaint points is that due to Oodle communicating with his insurance company, he received a smaller settlement amount than he feels was fair. He said he decided to tell Oodle not to talk to his insurance company any longer. So, he said, it came as big shock to him when he received an email from Oodle telling him they had received a pay-out of around £4,310 from his insurance company.

Mr A's finance agreement with Oodle says that:

“We will remain the owner of the vehicle throughout the agreement. You will only become owner of the vehicle at the end of the agreement if you have paid all the repayments owed to us under the agreement and exercised the option to purchase by paying the option to purchase fee”.

The finance agreement also says that:

“You authorise us to negotiate and settle any claim with the insurer, and to receive any moneys from the insurer under the policy. You may not withdraw this authority and you agree to accept any settlement we may reach with the insurer. You will still need to pay us any outstanding balance under this agreement. d) Unless we end this agreement pursuant to clause 13, this agreement will continue even if the Vehicle is lost or damaged.”

So, based on the contract Mr A had with Oodle, they were entitled to the proceeds of the insurance money, and they were within their rights to deal with Mr A's insurance company. So, I can't say that Oodle acted unreasonably when they used the funds from the insurance company to settle part of Mr A's liability on his finance agreement with them. I understand that Mr A remains unhappy about the settlement amount his car insurance paid out, but that is not something I can hold Oodle responsible for.

Mr A feels that he lost his bargaining power when Oodle accepted the funds from his insurance company, but Oodle was not actively negotiating with Mr A's insurance company. And from Oodle's contact notes I can see that Mr A had an open complaint with his insurance company in regards to the settlement amount, so I can't fairly say that he lost his bargaining power just because Oodle received the funds from his insurance company.

Mr A also questioned why the settlement figure from Oodle changed from around £5,691 in February 2020 to approximately £6,124 in August 2020. Oodle explained that the difference is that no payments were made during the approximate six months, between the two settlement figures being generated, and during this period interest also accrued. I think this is a reasonable explanation.

Support received from Oodle when Mr A told them that he is struggling to make payments

I've considered the question of whether Oodle has done enough to support Mr A, when he told them that he was experiencing financial hardship. When doing so, I've thought about the relevant rules and guidance at the time. The rules and guidance mentioned below refer to 'customers' and 'consumers', and I will be using these words interchangeably, but in this decision the words are to have the same meaning.

The Financial Conduct Authority (FCA) – Consumer Credit Sourcebook (CONC), and in particular CONC 7, titled “Arrears, default and recovery (including repossession)”, says that firms should consider consumers in default or in arrears difficulties with forbearance and due consideration. Treating consumers with forbearance would include such things as considering suspending, reducing, waiving or cancelling any further interest or charges, allowing deferment of payment of arrears, and accepting token payments for a reasonable period of time.

I can see that Mr A didn't make any payments towards his finance agreement, and in mid-February 2020, Oodle made contact with Mr A to inform him that his account was in arrears. But they did provide him with support by agreeing to place his account on hold as he waited for an update from his insurance company. This lasted until 11 March 2020, when Mr A told Oodle that he would not be making any payments until his insurance paid out. So, I think it

was fair that Oodle resumed sending notices and reminders of the arrears on his finance agreement and resumed seeking payments from Mr A. I say this because as per the finance agreement, Mr A was still liable to continue to make payments even if the car was damaged.

On 8 April 2020, Oodle once again reminded Mr A that he needed to be making payments towards his finance agreement as he awaited the response from his insurance company. But I've considered that during this conversation Mr A told Oodle that he was struggling to make his payments as he was not working. From the contact notes provided by Oodle, I can see that Mr A offered to make payments of £30 a month. But during this call, Oodle told him that the minimum he would need to make was £60. He said he couldn't afford this amount and asked them to put the account on hold. Oodle said they couldn't do that, and they told him that they would be passing his account to their solicitors to manage. The solicitors, on behalf of Oodle, tried to contact Mr A on various occasions by phone and email without success, so on 13 May 2020 they sent a default letter to Mr A.

The solicitors finally managed to contact Mr A on 14 May 2020. During that conversation Mr A explained that he was working, but that he was only paid for days he worked so he doesn't get paid for school holidays and bank holidays. Mr A again offered to pay £30, so considering his situation the solicitors asked him to complete an income and expenditure form. On 6 June 2020, I can see from the contact notes that the solicitors again spoke with Mr A. They discussed his income and expenditure form which outlined that Mr A was in deficit by £1,900 and that he was behind with several of his bills. Mr A offered to make payments of £60, but the solicitors said they didn't think this was reasonable as Mr A was in a deficit. Instead they said they would give him 30 days breathing space, so that he can seek financial advice. From the notes I can see that on 23 July 2020, Mr A contacted Oodle to discuss the settlement that the insurance was about to make. Mr A queried what would happen with the shortfall and he was told that he could either maintain his payments and address any arrears, or they could extend the term of the finance agreement so that he had a more affordable payment plan. So, I've considered all of the above and I can't say that Oodle or their solicitors treated Mr A unfairly. I think they treated him with forbearance and due consideration. Mr A on a few occasions was provided with breathing space, and they did try to come to a payment arrangement with him. They were also willing to offer Mr A an affordable payment plan.

I've also considered the additional guidance that The FCA published on 24 April 2020—“Motor finance agreements and coronavirus: temporary guidance for firms”. This guidance introduced temporary measures for consumers whose finances had been impacted by Covid-19, and it builds on Principle 6 (“A firm must pay due regard to the interests of its customers and treat them fairly”). The guidance states that “Where a customer was in pre-existing financial difficulty, our existing forbearance rules and guidance in CONC would continue to apply.”. It also states that “This guidance sets out our expectation that firms provide, for a temporary period only, exceptional and immediate support to customers facing payment difficulties due to circumstances arising out of coronavirus.”. Mr A didn't make any monthly payments towards his agreement which started in January 2020. The guidance came into effect after Mr A told Oodle that he was experiencing financial hardship, and he was already in pre-existing financial difficulty. Also, I've not seen any evidence that would allow me to conclude that most likely he was facing payment difficulties due to circumstances arising out of coronavirus. So, I think most likely this guidance didn't apply to Mr A's circumstances.

Also, I understand that Mr A is unhappy because he said Oodle wouldn't update information with the credit reference agencies to reflect the arson of his car as an explanation for the missing payments showing on his credit file. But Oodle is required to report a customer's true repayment history. And if Mr A would like to add an explanation to his credit file, he potentially can request the credit agency to add a notice of correction.

I sympathise with Mr A for the difficulties that he is experiencing but taking all of the circumstances of the complaint into account, I don't think overall that Mr A has been treated unfairly. I think he should contact Oodle and/or their solicitors, and I think it would be reasonable for them to arrange a repayment plan together that works for all parties.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 19 April 2022.

Mike Kozbial
Ombudsman