

The complaint

Mr P complains that he was told by Moneybarn No. 1 Limited ("Moneybarn") that after voluntarily terminating his conditional sale agreement ("agreement") any proceeds it received on the sale of the car would be used to reduce the sum he owed under that voluntary termination.

What happened

In May 2019 Mr P entered into an agreement with Moneybarn for the acquisition of a used car costing £7,873. Everything else being equal Mr P agreed to make 59 monthly payments of £241.59 – making a total sum repayable of £14,253.81 at an APR of 30.4%.

Under the terms of the agreement Mr P had the right at any time to repay the amount still owed to Moneybarn (reduced in certain circumstances by an early settlement rebate) and to take legal ownership of the car. He also had the right to return the car, with nothing further to pay, where he had paid Moneybarn – or was prepared to pay Moneybarn – £7,126.91, this being 50% of the total sum repayable under the agreement of £14,253.81.

On 27 August 2019 Mr P requested from Moneybarn an early settlement figure.

On 30 August 2019 Moneybarn sent Mr P a letter titled "*Your options for ending your agreement with us early*". Under cover of this letter Moneybarn said Mr P had the option of voluntarily terminating the agreement and returning the car to it together with £6,402.14 – this being £7,126.91 (50% of £14,253.81 payable under the agreement) less £724.77 (3 monthly payments of £241.59). It also said that Mr P could settle the agreement in full and take legal ownership of the car by paying it £8,149.15 – this being £14,253.81 (the full sum payable under the agreement) less £724.77 (3 monthly payments of £241.59) less £5,379.89 (early settlement rebate).

On 16 September 2019 Moneybarn sent Mr P a letter titled "*Your options for ending your agreement with us early*". Under cover of this letter Moneybarn said Mr P had the option of voluntarily terminating the agreement and returning the car to it together with £6,160.55 – this being £7,126.91 (50% of £14,253.81 payable under the agreement) less £966.36 (4 monthly payments of £241.59). It also said that Mr P could settle the agreement in full and take legal ownership of the car by paying it £8,006.71 – this being £14,253.81 (the full sum payable under the agreement) less £966.36 (4 monthly payments of £241.59) less £5,280.74 (early settlement rebate).

Mr P decided to voluntarily terminate the agreement, rather than settle it and take legal ownership of the car. Following his decision to do so Moneybarn (on 18 October 2019) invoiced him £6,350.54 – this being £7,126.91 (50% of £14,253.81 payable under the agreement) less £966.36 (4 monthly payments of £241.59) less 1p rounding plus a £190 collection fee.

This complaint was considered by one of our investigators who came to the view that Mr P, on the balance of probabilities, hadn't been misadvised about what he would ultimately owe Moneybarn after he voluntarily terminated the agreement.

He also came to the view that Mr P hadn't been prejudiced in not being given the opportunity by Moneybarn to voluntarily surrender the car because this option wouldn't have been to his advantage, or benefit.

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.

First, I would like to point out I've read and considered the whole file, but I'll concentrate my comments 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.

Secondly, I would add that where the information I've got is incomplete, unclear or contradictory, as some of it's here, I've to base my decision on the balance of probabilities.

Mr P says that he was advised by Moneybarn that after the car had been sold the net proceeds of that sale would be applied to reduce the sum he owed following voluntary termination.

It's unfortunate that the relevant call recordings are no longer available, but this isn't surprising given the passage of time. But based on the system notes provided by Moneybarn, and given what Mr P says he was advised would be very unusual, I'm simply not persuaded that he was misled, or misadvised, as he submits. In other words, I'm satisfied, on the balance of probabilities, that Mr P wasn't advised that the sum he owed, after voluntarily terminating the agreement, would be reduced by the proceeds of the car sale.

For the sake of completeness I would also add that like the investigator I'm not persuaded that had Mr P been advised he also had the option to voluntarily surrender the car he would have exercised this option on the grounds that it wouldn't have been to his advantage, or benefit.

For the sake of completeness I've also considered whether Moneybarn could and should have brought any other options to Mr P's attention other than full settlement, voluntary settlement and voluntary surrender, such as selling the car privately, or part-exchanging it.

But even if I was to conclude that Moneybarn could and should have done this, it's my view Mr P could and should have realised that these were options that were possibly open to him and therefore he hasn't been prejudiced by them not being brought specifically to his attention.

I appreciate Mr P will be disappointed by my decision, but taking everything into account I don't think he was misled as he submits and that he wasn't prejudiced in not being advised of the option of voluntary surrender.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 22 November 2021.

Peter Cook
Ombudsman