

The complaint

Mr S complains that a finance agreement brokered by Lets Talk Finance Limited ("LTF") was misrepresented to him.

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here. Instead I'll focus on giving my reasons for my 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.

I know it will disappoint LTF, but I agree with the investigator's opinion. Please let me explain why.

Where the information I've got is incomplete, unclear, or contradictory, as some of it is here I have to base my decision on the balance of probabilities.

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.

If Mr S was given a false statement of fact and if that false statement of fact led him to enter into an agreement he wouldn't otherwise have entered into, I'd think the agreement had been misrepresented to him and I'd ask LTF to do something about it.

Was there a false statement of fact?

I think there was. The order form Mr S agreed to made no mention of any deposit but the finance agreement did. And by that time Mr S had already paid an arrangement fee to cover LTF's administration costs when brokering the agreement - the details of which he hadn't been made fully aware of.

Would Mr S have entered into the agreement had it not been for the false statement?

LTF say Mr S had no intention of doing so. They've explained that he tried to cancel the agreement the day after the order form was issued and they've also explained that the deposit was always to be paid by the dealership. LTF say that the order form was always subject to change.

Mr S says he wouldn't have entered into an agreement where there was no clarity about who was going to pay the deposit.

I've seen a copy of the email Mr S sent to LTF the day after he signed the order form. Mr S said he didn't want to proceed with the agreement as *"the payments and insurance are more than my intended budget"*. He didn't withdraw from the agreement because he was told by LTF that he wouldn't get his arrangement fee back and he'd need to pay a cancellation fee.

At that point Mr S was unaware there was a deposit required. If he'd been aware I don't think he would have proceeded with the agreement. I say that because he'd already expressed reservations that the agreement wasn't affordable and if he'd been told there was, potentially another £2373.25 to pay I think that would have reinforced his view.

LTF have explained that Mr S would never have had to pay that deposit. When they sent Mr S the finance documents on 27 April 2021 they explained that the deposit would be paid by the dealership directly to Mr S.

But that wasn't something Mr S was aware of when he placed the order and that's not what the finance agreement said. The agreement said Mr S was responsible for making the advance payment and I don't think he would have proceeded with the order had he been told that in the first place.

LTF have explained that they took advice from the British Vehicle Rental and Leasing Association (BVRLA) and they've suggested the advice was supportive. That advice was provided over the phone and as there are no call records I don't know what LTF told the BVRLA about the case or what they were told in return. I've not been able to take that evidence into account.

Overall, I'm persuaded that the agreement was misrepresented to Mr S.

Putting things right

LTF should put Mr S back in the position he would have been in had the misrepresentation not have taken place.

To achieve that I'm asking LTF to refund the arrangement and cancellation fees and to add interest to those refunds as Mr S has been deprived of the money.

My final decision

For the reasons I've given above I uphold this complaint and tell Lets Talk Finance Limited to refund the arrangement and cancellation fees Mr S paid and to add 8% simple interest per year to those refunds from the dates of payment to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 6 April 2022.

Phillip McMahon
Ombudsman