

The complaint

Mr R has complained MotoNovo Finance Limited has continued to ask him to pay a hire purchase agreement after he told them he'd not taken possession of the car.

What happened

MotoNovo started to ask Mr R to make repayments on a hire purchase agreement he'd taken out with them in October 2019. Mr R contacted MotoNovo to confirm he'd never taken possession of the car in October. He'd cancelled the direct debit after he noticed initial payments had been taken. He'd understood from the dealer (who I'll call M) that the hire purchase agreement had been cancelled. Mr R then took out another hire purchase agreement with a different finance company the following month.

MotoNovo confirmed Mr R had signed the agreement and had made initial payments. As the location of the car was unknown, they felt Mr R should pursue a complaint against M (despite M since having stopped trading). They were unwilling to offer Mr R any further assistance.

Mr R brought his complaint to our service. He explained he'd been in contact with M and they'd confirmed the agreement had been cancelled. However this didn't happen. M had stopped operations. As Mr R realised MotoNovo still expected him to make payments, he wanted our service to confirm he'd never taken possession of the car.

We ensured that MotoNovo received an email from M in September 2020 confirming that the hire purchase agreement should be unwound and Mr R had never had the car.

After lengthy delays from MotoNovo, our investigator reviewed the evidence. He found there was no evidence to suggest Mr R had ever taken possession of the car. He also noted that there didn't appear to have been any car for Mr R to purchase. As there was a breach of contract with Mr R taking out a hire purchase agreement without ever possessing the car, our investigator asked MotoNovo to cancel the hire purchase agreement, remove any reference to this from Mr R's credit record, repay all payments Mr R had made along with 8% simple interest.

MotoNovo didn't believe they should do this. They also made allegations about M and the potential for Mr R being involved in a fraud.

This complaint has been referred to an ombudsman as no agreement could be reached.

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 conclusion as our investigator. I'll explain why.

I confirm that prior to completing this final decision I asked Mr R to provide us with more information about the circumstances of his attempted purchase at M along with copies of

bank statements. I appreciate him providing us with this further information despite it now being some time since he first brought his complaint to our service.

He's been clear that he never viewed the high performance car he'd been hoping to buy as M said there were a few issues which needed attention. It was after a month or so when M told him there was no valid MOT that Mr R decided not to proceed with the purchase.

I also asked MotoNovo to share evidence of what they believed was a wider fraud ring with M's involvement. They've had ample opportunity to provide us with this in confidence but nothing has been forthcoming. However I am aware from M's liquidator's annual report that police have progressed to charging M's director. This service also has other cases where it's been suggested M did show cars that resembled cars the customer thought they were buying. These cars were never at M's premises nor were they available for M to sell.

There's no dispute that Mr R took out the agreement. Initially Mr R wasn't concerned as he was expecting repairs to be carried out to the car he was purchasing. It was a month later when he found out that M was unable to confirm where the car was. He'd also discovered that there was no valid MOT and the car hadn't been taxed for a couple of years.

I can see why Mr R was confident that M knew he didn't want to proceed with the agreement. M refunded the first hire purchase payment Mr R had made from his account.

In the end the resolution to this complaint is quite simple. As Mr R was never supplied with the car, even though he signed a related hire purchase agreement, I don't believe MotoNovo can expect him to pay the agreement. M was acting as their agent and it's clear they didn't provide Mr R with his car. It also appears from the evidence that this car was never available for purchase.

I understand MotoNovo has suggested Mr R has been collusive in the fraud that M seems to have been involved in. But I have no evidence this is the case.

Mr R did initially make payments under the hire purchase agreement. One of these was refunded directly by M but a further two payments were taken from Mr R's account.

I believe Mr R has also complained to the police about what has happened.

Putting things right

As I believe Mr R never purchased the car relating to this agreement, I am asking MotoNovo to put things right.

Mr R has also confirmed that no part-exchange or deposit was ever provided as he kept his previous car.

MotoNovo will need to cancel the credit agreement, remove this from Mr R's credit record and refund all payments he'd made along with adding 8% simple interest a year.

My final decision

For the reasons I've given, my final decision is to instruct Motonovo Finance Limited to:

- Cancel the hire purchase agreement in Mr R's name;
- Remove this agreement from Mr R's credit record;

- Refund all payments Mr R has made under this agreement; and
- Add 8% simple interest a year from the date of the payments until the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 21 April 2022.

Ombudsman