

## **The complaint**

Mr F complains about the fee he was charged when he cancelled the conditional sale agreement Hippo Vehicle Solutions Limited (Hippo) had arranged for him for the supply of a car.

## **What happened**

In May 2022 Mr F agreed that Hippo would provide finance for the supply of a used vehicle. Mr F said he cancelled the agreement six days later when he discovered he couldn't afford the cost of the motor insurance. He said he'd paid a deposit of £400 to Hippo, and he wanted them to return his deposit to him.

Hippo said they unwound the agreement with the lender after Mr F told them he wanted to cancel it. They said their terms of business included a £600 cancellation fee. They said they reduced that to £300 in this case because Mr F didn't take ownership of the car.

They said they charged the cancellation fee to cover their time and effort arranging the agreement. They said the cancellation fee was clearly set out in the documentation that Mr F had signed.

Mr F wasn't happy with the response and complained to this service.

Our investigator upheld Mr F's complaint. He said that Hippo's fee appeared to him to be a fee for services charged by a credit broker and the provisions set out in section 155 of the Consumer Credit Act 1974 (CCA) meant that the fee was fully refundable, less £5. He said Hippo should refund £295 to Mr F (plus 8% annual interest), and pay £100 for the distress and inconvenience caused to him.

Mr F didn't accept the award of £100 for his distress and inconvenience.

Hippo also did not accept our investigator's outcome. They said Mr F had signed their terms of business and information notice, which they said clearly outlined their cancellation fees. They said they had acted as a broker in this agreement and not a finance provider. They said they had already reduced their cancellation fee by 50%, which they felt was very fair.

Both parties asked for an ombudsman to review the case.

## **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 have reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

In considering this complaint I've had regard to the relevant law and regulations; and the regulator's rules and guidance. The agreement Hippo had arranged for Mr F was a conditional sale agreement. This is a regulated consumer credit agreement which means we're able to look into complaints about it.

The issue here is whether or not it was fair and reasonable for Hippo to charge Mr F a fee after he cancelled the agreement before he received the car.

### **The terms of business**

Hippo's terms of business included a section on cancellation and withdrawal. This section informed customers like Mr F that if they cancel or withdraw from the agreement, Hippo reserved the right to charge a '*cancellation fee of up to £600*'. This section also stated that they may '*withhold any deposit for services provided by Hippo*'.

In their response to our investigator, Hippo confirmed that it was acting as a broker in this agreement, not the lender. So, although the cancellation fee is set out in the terms of business, I have to consider the relevant legislative requirements in the CCA.

### **Considerations under the CCA and FCA Handbook**

Section 155 of the CCA refers to a consumer's right to a refund of fees charged by a credit broker, like Hippo, when an agreement is not entered into. I consider these relevant to determining what is fair and reasonable here. Section 155 states:

*155 Right to recover brokerage fees.*

*(1) Subject to subsection (2A), the excess over £5 of a fee or commission for his services charged by a credit-broker to an individual to whom this subsection applies shall cease to be payable or, as the case may be, shall be recoverable by the individual if the introduction does not result in his entering into a relevant agreement within the six months following the introduction (disregarding any agreement which is cancelled under section 69(1) or becomes subject to section 69(2))."*

This right is also set out by the Financial Conduct Authority (FCA), the industry regulator, in its handbook under section CONC 6.8.3.

Paragraph CONC 6.8.3 (2) confirms that the reason why the agreement wasn't entered into is immaterial. Helpfully the example it gives is similar to this complaint – it says that:

*'an individual should be entitled to a refund where the individual decides for any reason not to enter into an agreement within the relevant time period'*

Mr F cancelled his agreement within six days – that is not disputed. And he cancelled within the cooling off period prescribed in section 69 of the CCA. So I'm satisfied that CONC 6.8.3 (5) applies, and that the agreement is treated as never having been entered into.

And for that reason I'm satisfied that Mr F is entitled to a refund of the fee, minus £5. I say this because I'm satisfied that the fee is one that is payable to the broker – Hippo – whether or not it is described as a fee or commission (CONC 6.8.3 (4)).

Hippo said that the cancellation fee was to cover their time and effort arranging the agreement. They have provided no further information about the breakdown of the fee. I'm satisfied that the amount they can charge for these services is limited to £5. I say that

because they described their services as brokerage, the agreement wasn't entered into, and section 155 of the CCA limits the amount that can be charged to £5.

### **Distress and Inconvenience**

Section DISP 3.7 of the FCA Handbook sets out my powers to make awards. This allows me to make an award for distress and inconvenience. Our investigator awarded Mr F £100 for the distress caused to him. This was to reflect how stressful Mr F had found dealing with the complaint.

Mr F felt this wasn't sufficient. He said he wanted another £100 because of how long it had taken to resolve the complaint.

I have to firstly consider the impact on Mr F. He's complained about the length of time. I accept that this has been a frustrating time, and has led to some inconvenience for Mr F. And for that I think £100 is a fair and reasonable award to reflect the impact on him.

Like our investigator, I've also added 8% annual interest to the amount to be refunded. That is to reflect the fact that Mr F has not had use of the money from when it should've been awarded. I'm satisfied that is adequate compensation for the time taken to resolve the complaint.

### **Putting things right**

To put things right Hippo must:

- refund £295 to Mr F as the remainder of the payment received less £5
- pay 8% a year simple interest on the refunded amount from the date of payment until the date of settlement
- Pay £100 to Mr F for the distress and inconvenience caused.

### **My final decision**

For the reasons explained, I uphold Mr F's complaint and Hippo Vehicle Solutions Limited should follow my directions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 3 February 2023.

Gordon Ramsay  
**Ombudsman**