DRN-3674841

The complaint

Mrs S complains about the poor condition of her car when it was returned to her, following its repossession, by Creative Finance Corp Ltd trading as Motorkitty (CFCL)

What happened

In 2018 Mrs S was given a loan by CFCL for £1,000 secured against her car. The car was repossessed as Mrs S was having some difficulty in repaying the loan. Mrs S complained that the loan shouldn't have been given to her. The complaint was brought to our service and one of our ombudsmen upheld her complaint. Part of the ombudsman's final decision directed CFCL to return Mrs S' car to her and to arrange an affordable suitable repayment plan if a balance remained outstanding on the loan.

Mrs S said when her car was returned to her, she found the following issues with it:

the battery was dead
writing on her windscreen
rubbish in the car
rusty brake pads and calipers

Mrs S says she replaced the car battery and booked the car into a garage for an inspection, where they advised the brake pads and calipers needed to be replaced. Mrs S said she paid over £650 on the repairs to her car. Mrs S said that CFCL told her she still owed them a balance on the original loan and have placed a finance marker on the car, which she believes prevents her from selling it on.

Mrs S said she's lost out financially due to the cost of repairs, and that the situation has caused her stress, anxiety and has made her ill. Mrs S says to resolve matters she wants CFCL to write off the remaining balance, remove the finance marker and compensate her for the repairs carried out on the car.

In December 2021 Mrs S brought her complaint to our service.

CFCL responded to Mrs S complaint advising they'd never driven the car while it was being held and said it was taken to an auction housed to await its sale. They advised the worn brake pads were not their liability. CFCL however offered to write off the balance if a settlement could be arranged.

In an email to our investigator dated 15 June 2022 CFCL confirmed the loan balance was written off by them.

Having considered all of the evidence, our investigator said that CFCL hadn't acted fairly in the circumstances. However, as the outstanding balance of the loan was written off and there was no evidence of repairs carried out on the car, our investigator recommended that CFCL should pay Mrs S £50 compensation for the condition of the car's interior when it was returned to her.

CFCL didn't respond to accept or reject our investigator's view so the complaint has ben referred to an ombudsman for a final 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.

In considering what is fair and reasonable, I've thought about all the evidence and information provided afresh and the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and (where appropriate) what I consider to have been good industry practice at the relevant time.

Mrs S' complaint focusses on four elements:

- The condition of the car's interior and windscreen
- The repairs she had carried out to the car
- The outstanding balance on the loan
- The finance marker on the car

I've looked at each point individually in consideration of whether CFCL have acted fairly in the circumstances.

interior of the car and windscreen

In March 2021 Mrs S provided us with photos showing the state of her car's interior and windscreen. The photos show the windscreen had writing on it, rubbish in the passengers front seating area and a tyre and other objects in the boot area with the back-passenger seats pulled down. Mrs S said she was mortified with the condition. Having considered the photos provided I'm persuaded Mrs S received the car in that condition when her car was returned to her, and I've no reason to doubt that the condition of the car's interior and windscreen was considerably different to when Mrs S had it repossessed. So, in the circumstances I think it's fair that CFCL compensates Mrs S for this and I'm in agreement with our investigator that £50 is a fair recognition of the poor condition of the car's interior and windscreen when it was returned to Mrs S.

the repairs carried out

Mrs S said she paid £650 to have the battery replaced, the brake pads and calipers repaired. However, Mrs S wasn't able to provide any evidence of this, for example in the form of a receipt, job cards or diagnostic reports. So, I'm not able to confirm whether there was any damage to the car, or what may have caused it. Having considered the car was likely to have remained idle following its repossession, I think it's fair to say there may have been some impact to the car as a result, for example to the battery through lack of use. I haven't seen any evidence that says CFCL were responsible for the regular maintenance or running of the car to ensure it had a level of activity. So, I'm not persuaded it'd be fair to ask CFCL to pay Mrs S £650.

outstanding loan balance and finance marker

Mrs S complained that CFCL said she had an outstanding balance to pay and maintained a finance marker on her car. In an email to us dated 15 June 2022 CFCL confirmed the balance had been written off, they provided screenshots to evidence this and that they'd removed the finance marker. In the circumstances I'm satisfied with the action taken by CFCL and won't be instructing them to do anything further in relation to this part of the complaint.

My final decision

To settle the complaint Creative Finance Corp Ltd trading as Motorkitty has already written off the outstanding loan balance and removed the fiancé marker that was applied. I think this is fair in all the circumstances.

So my decision is that in addition to what they've already done, I instruct Creative Finance Corp Ltd trading as Motorkitty to pay £50 compensation to Mrs S, in recognition of the inconvenience caused due to the condition of the interior of the car when it was returned to her.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 27 October 2022.

Benjamin John
Ombudsman