

## **The complaint**

Mr W complains that Motorpoint Limited hasn't provided the correct settlement to his complaint following the rejection of his car.

## **What happened**

Mr W entered into a finance agreement to acquire a car from Motorpoint Limited in March 2017. This finance agreement was with another party.

Mr W says the car he acquired wasn't of satisfactory quality and so he rejected it and the vehicle was returned to Motorpoint. Motorpoint accepted the rejection and paid Mr W £11,426. Mr W says that his finance agreement wasn't settled, and he continued to make the repayments over a five-year term meaning he paid more than he should have given the rejection of the car.

In response to Mr W's complaint, Motorpoint explained that its usual process wasn't followed which would have been for the finance to have been settled and the negative equity from Mr W's previous vehicle to be paid to Motorpoint by Mr W. Instead, Mr W was refunded £11,426. Because it didn't take its usual approach Motorpoint offered to refund Mr W the difference between the total amount he had paid under his finance agreement, less the amount it had already paid to him and less the negative equity from his previous agreement. It also said it would add 8% statutory interest to the refund which it calculated as £251.71 and offered £300 as a gesture of goodwill for the error that was made. Mr W accepted this offer and payment was made.

Mr W then referred his complaint to the Financial Ombudsman Service as he wasn't happy with the calculation of the 8% statutory interest.

Our investigator didn't uphold this complaint. They didn't think that Mr W had taken action to mitigate his losses when the initial payment was made by Motorpoint for the rejected car. They said that had he contacted the finance provider at that time then the total interest payable could have been reduced. Given this they thought the offer made by Motorpoint was reasonable. They noted the outstanding issue with the calculation of the interest on the refund but thought that Motorpoint had done enough to resolve this complaint.

Mr W didn't agree with our investigator's outcome. He reiterated that 8% simple interest hadn't been calculated correctly.

## **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.

This complaint is about Motorpoint. In regard to consumer credit activities, Motorpoint's authorisation is limited to credit broking, debt adjusting and debt counselling. It is with regard to these activities that I can consider this complaint.

This complaint is about the settlement provided following Mr W's rejection of the car he acquired using finance provided by a third party. Any credit broking activity undertaken by Motorpoint would have happened at the outset when the finance was provided. No issues regarding the credit broking have been raised as part of this complaint. There is no suggestion of Motorpoint undertaking a debt counselling role in this case and so this leaves debt adjusting.

The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 sets out that debt adjusting includes:

- negotiating with the lender, on behalf of the borrower, terms for the discharge of a debt,
- taking over, in return for payments by the borrower, that person's obligation to discharge a debt, or
- any similar activity concerned with the liquidation of a debt.

In this case I cannot see that Motorpoint carried out any negotiation with the finance provider when Mr W returned the car nor that it took over Mr W's liability for the finance. Instead, it provided a settlement directly to Mr W. Therefore, in this case I do not think it is clear that Motorpoint were carrying out debt adjusting (or any other form of regulated activity) when the settlement was provided.

That said, even if Motorpoint's actions in regard to the settlement offer could be considered a regulated activity, I think it has done enough to resolve this complaint. I say this because Motorpoint initially refunded Mr W £11,426 which he could have used to pay off his finance agreement. If the settlement amount at that time hadn't been enough to repay his finance, I would have expected Mr W to have raised this at that time. Mr W didn't settle his finance and instead continued to repay this over the term meaning interest continued to be charged. In response to Mr W's complaint, Motorpoint refunded the interest paid as well as paying an amount for interest and a goodwill gesture. Given the circumstances of this complaint, and that Mr W didn't take actions to mitigate his costs, I think that Motorpoint has done enough to resolve this complaint.

In conclusion, while it isn't clear that the issue raised in this complaint forms part of a regulated activity by Motorpoint, in the event it does, I do not think that Motorpoint is required to do anything further to resolve this complaint.

### **My final decision**

My final decision is that I do not uphold this complaint about Motorpoint Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 19 April 2023.

Jane Archer  
**Ombudsman**