

## **The complaint**

Mr M is unhappy that Clydesdale Financial Services Limited trading as Barclays Partner Finance ('BPF') terminated the conditional sale agreement he had with them and refused to accept a payment plan for his arrears.

## **What happened**

In August 2019 Mr M was supplied with a used car through a conditional sale agreement with BPF. The agreement was for £13,500 over 60 months; with monthly payments of £283.38.

While Mr M paid the first two payments, he started to miss payments from December 2019 onwards. In April 2020, Mr M lost his job as a result of the coronavirus (Covid-19) pandemic. He advised BPF about this, and they agreed to periods of breathing space (where no payments were required), and periods where only token payments were needed. BPF also asked Mr M for his income and expenditure details, so they could assess how they could assist him longer term, but these were never provided.

On 19 May 2022, BPF sent Mr M a default notice explaining he had £5,650.67 arrears and asking him to take action to repay these by no later than 21 June 2022. And, if he didn't, BPF could terminate the agreement and repossess the car.

Mr M didn't take any action following the default notice and, on 8 July 2022, BPF wrote to him to tell him they were terminating the agreement and would be looking to repossess the car. On termination, his arrears stood at £6,217.43 – equivalent to around 22 months payments.

Mr M wasn't happy about the termination, or that BPF were going to repossess the car. He said he needed to keep the car and had offered to clear the arrears over a 10-month payment plan, but BPF had refused this. So, he brought his complaint to us for investigation.

Our investigator explained that, under the guidelines laid down by BPF's regulator the Financial Conduct Authority ('FCA'), financial businesses should treat consumers in default or arrears with forbearance and due consideration. And this could be by way of waiving interest, deferring arrears payments, accepting token payments etc.

He said that BPF had spoken to Mr M about the situation many times and put measures in place such as breathing space and token payments. But, because Mr M never completed any income and expenditure form, or offers to pay the arrears, nothing more long-term could be put in place.

The investigator appreciated Mr M's financial difficulties but didn't think it was reasonable to expect BPF to allow the situation to continue, as arrears would continue to accrue. And this would've put Mr M in a worse position financially. As such, he thought BPF had acted reasonably by defaulting and terminating the agreement. And he didn't think they needed to do anything more.

Mr M didn't agree with the investigator. He thought that BPF should reverse the termination, and accept his offer to pay the arrears, as he needs the car as transportation for a vulnerable family member. He's also said that the stress of the situation has caused his partner to be hospitalised.

Because Mr M didn't agree, this matter has been passed to me to make 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.

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; any regulator's rules, guidance and standards, codes of practice, and what I consider was good industry practice at the time. Mr M was supplied with a car under a conditional sale agreement. This is a regulated consumer credit agreement which means we're able to investigate complaints about it.

From the evidence I've seen, I'm satisfied that Mr M was in arrears with BPF. And that the arrears were increasing on a month-by-month basis. BPF's case notes show that, from the first point Mr M started to miss payments in December 2019, they tried to work with him to clear the arrears in a sustainable way. I've seen that he was offered both breathing space and allowed to make token payments. He was also asked to provide income and expenditure details so a longer-term solution could be put in place. But I haven't seen that Mr M ever provided this information.

Given this, I'm satisfied that BPF followed the FCA's guidelines around forbearance and due consideration. However, it's also not reasonable to expect BPF to allow a situation such as this to go on indefinitely. As doing so would only put Mr M in a worse situation financially as the arrears would continue to increase.

The statement of account shows that Mr M only made payments totalling ten monthly instalments between January 2020 and February 2022. And, by July 2022, the agreement was almost two years in arrears, with just over two years remaining on the original term.

Given the situation, and that no payment arrangement had been put in place, I think it was reasonable for BPF to terminate the agreement and start to take steps to repossess the car.

It's my understanding that Mr M made offers to repay the arrears – one at £600 a month, and the other at £1,000 a month. But these offers were made after the agreement had been terminated. I haven't seen anything to show me that Mr M submitted any form of income and expenditure assessment to show that either of these offers were sustainably affordable. And, if they were, then it's reasonable to assume that Mr M most likely had the means and opportunity to make these offers before the agreement was terminated. But he didn't do so.

I've seen that, in January 2023, Mr M made a further offer to pay £6,000 towards the arrears and then resume monthly payments. But this offer was made seven months after the agreement was terminated. However, it wouldn't have cleared all the outstanding arrears at the time of the termination and, if the agreement had been reinstated as Mr M wished, it would've meant that Mr M would also still owe the payments from July 2022 to January 2023 – a total of £1,983.66. And, as the offer was to just resume monthly payments after the lump sum had been paid, it wouldn't have addressed these outstanding arrears.

Given this, I don't think it was unreasonable for BPF to advise Mr M that the offers weren't acceptable. And I won't be asking them to retrospectively accept these.

I appreciate the situation Mr M now finds himself in, and that he's reliant on the car for both his and his family's transportation. But I don't think it's fair to allow him to continue to have use of a car he's not paying for and clearly hasn't been able to afford for over three years. And to do so would only add to his financial situation, potentially putting him in a worse position to the one he now finds himself in. So, for the reasons stated, I won't be asking BPF to do anything more.

### **My final decision**

For the reasons explained, I don't uphold Mr M's complaint about Clydesdale Financial Services Limited trading as Barclays Partner Finance.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 20 July 2023.

Andrew Burford  
**Ombudsman**