

The complaint

Mr D complains about a van he acquired under a hire purchase agreement with RCI Financial Services Limited, trading as Mobilize Financial Services ("Mobilize").

What happened

In September 2022 Mr D acquired a brand new van under a regulated hire purchase agreement with Mobilize. Its cash price was £33,291, and its mileage was zero. Mr D paid a deposit, and the balance was £22,589.

On the day Mr D collected the van, he found that the alarm kept going off. He brought the van back to the dealership the next day to be repaired. The first repair was unsuccessful, and he took the van back a second time. The dealership ordered a new part, and meanwhile Mr D found a number of other problems with the van. The dealership was not ready to repair the van until January 2023, and when it was returned to him, Mr D says he discovered on the drive home that the none of the faults had been repaired, and that night, the alarm kept sounding again. The next day he took the van back and told the dealership that he was rejecting it.

Mr D complained to Mobilize. The dealership told Mobilize that Mr D had not collected the van in January, that a new alarm had been fitted and it had never gone off while the van had been at the dealership, and that Mr D had not reported any other faults to it, and so the other alleged faults had never been investigated. Based on this information, Mobilize did not uphold Mr D's complaint. Since he knew better, Mr D brought this complaint to our service. He said that he had needed the van to get to work, and that the whole experience had been stressful.

Our investigator upheld this complaint. He accepted that Mr D had collected the van from the dealership in January after it was repaired, and that he had found that the repair had been unsuccessful, so he had then taken it back and rejected it. He said Mr D had been entitled to reject it, the repair attempts having failed. He recommended that the deposit and monthly payments be refunded, and his insurance and tax costs be refunded, with interest on all the of refunds at eight percent a year. He also said that the hire purchase agreement should be removed from Mr D's credit file, and that Mr D be paid £300 for his inconvenience.

Mobilize did not accept that the alarm had not been repaired in January. It said that the videos Mr D had provided as evidence in support of his case were not time-stamped and so they could have been taken earlier. It said it had checked again with the dealership, and the dealership insisted that Mr D had never taken the van back after it was repaired in January 2023. The dealership also said that the fault had not recurred while the van had been at the dealership, and that the manager had taken the van home for a couple of nights, and the alarm had not gone off then either.

Because agreement could not be reached, the case was referred for an ombudsman's 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 uphold it. I will explain why.

I cannot accept the dealership's claim that Mr D only ever reported the fault with the alarm, and not any other faults. Mobilize has provided a copy of the dealership's job card for the January 2023 repair, and it lists several faults which were investigated. These were as follows:

- "Please investigate & report ALARM GOING OFF"
- "Roof lining has clips inside moving around"
- "Please investigate & report check rpm as slightly higher than should be"
- "Please investigate & report wipers on auto – seem to be erratic [s/c] please check"
- "Please investigate & report the left side of the windscreen clears faster than drivers side"
- "Please investigate & report Wobble when accelerating and problem changing gears"
- "Please investigate & report moisture build up inside the cabin"
- "Please investigate & report gearbox is whining when accelerating"
- "Issue on 2nd gear struggling to get into gear when clutch fully depressed"

I'm satisfied that all these faults were present, and that all or most of them were present or developing at the point of sale. Accordingly, I think that the van was not of satisfactory quality at the point of sale. Since the first attempt at repairing the alarm in 2022 was unsuccessful, Mr D was entitled to reject the van.

But this evidence is also significant for another reason. It means that the dealership's evidence is unreliable, because they said that Mr D had never reported any of these faults except the alarm, and consequently it had not investigated them. So I do not think it would be remotely safe for me to rely on the dealership's assertion that Mr D never collected the van after the repair attempt in January 2023. I have no hesitation at all in accepting Mr D's testimony that he drove the car home and found that all of these faults were still present, and so he took the van back the next day and exercised his right to reject the van. I am entirely satisfied that he was entitled to do that, not only based on the unsuccessful repair of the alarm, but also because of the failure to repair the other defects too.

It follows that I uphold this complaint. I agree with my colleague's recommended redress. (For the avoidance of doubt, I will say that the finance agreement should be ended with nothing further to pay, as my colleague implied that without expressly saying so.)

My final decision

My decision is that I uphold this complaint. I order RCI Financial Services Limited (trading as Mobilize Financial Services) to:

- Cancel the agreement with nothing further to pay, and remove it from Mr D's credit file;
- Refund Mr D's deposit and all of his monthly payments under the agreement;
- On receipt from Mr D of proof of how much he paid to tax and insure the van in 2022,¹ refund his insurance (including GAP insurance, if any) and tax;

¹ That means the van he rejected, not the replacement vehicle he got in March 2023.

- On receipt from Mr D of proof of how much he paid for accessories for the van (protection bars, seat protection covers and a tow bar), refund the cost of those;
- Pay interest on all of the above refunds at the rate of 8% a year simple from the respective dates of payment to the date of settlement;
- Pay Mr D £300 for his inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 25 October 2023.

Richard Wood
Ombudsman