

The complaint

Mr V complains that Carnegie Consumer Finance Limited will not let him cancel his fixed sum loan.

What happened

In January 2023 Mr V bought a training course from a supplier I'll call E.

E introduced Mr V to Carnegie with whom he took out a fixed sum loan to finance the purchase of the course. The course cost £7,800 and Mr V paid a deposit of £60. The loan was repayable over 43 monthly payments of £180 with an APR of 0%.

Within a few weeks of taking out the loan Mr V began to express concerns with E and Carnegie. He said he was unhappy with Carnegie's actions in administering the agreement as it had sent a welcome email with an incorrect end date, overstating it by a month. He was also unhappy with the way Carnegie had collected identification and payment details from him.

After these issues, Mr V said he searched online about E and Carnegie and was shocked by negative reviews which said it was a scam. Mr V contacted Carnegie and E by email in February 2023 asking to cancel the contract *"due to alleged fraud"* and because *"its inception was intentionally misleading or false"* and he *"no longer ha(d) faith in the services provided by your company and cannot continue to work with you in good faith"*.

When asked by E to elaborate on his concerns Mr V said *"the course adviser did not discuss thoroughly the terms and conditions upon signing the contract"*.

Mr V later updated this to say that your *"decision to cancel my contract is not based on any accusations of fraud or illegal activity but rather my personal concerns about the system and my trust issues."*

In its response to Mr V, Carnegie apologised that it made a mistake with the payment end date in the email and confirmed its system did have the correct information. It said the 14 day cooling off period set out in the supply contract had passed and it was no longer possible to end the loan agreement with nothing to pay. It said that the monthly payments were expected under the agreement.

Dissatisfied Mr V referred his complaint to the Financial Ombudsman Service. He said the cancellation provisions in the supply contract had not been made clear to him before he agreed to enrol on the course.

An Investigator didn't think Carnegie needed to put anything right. She said the negative online reviews didn't automatically mean there were issues with the content of Mr V's course or that it had been mis-sold and it appeared the course had been made available for him to use. She said from the available evidence it appeared Mr V had been made aware of his right to cancel the course within the first 14 days but hadn't cancelled within this time. Lastly, she didn't think there were any problems with the way Carnegie had collected identification

or payment information from Mr V. She thought Carnegie's apology for getting the term wrong in its welcome letter was enough.

Mr V disagreed with the investigator and asked an ombudsman to review his complaint. He said:

"Unfortunately, I don't have the means to provide to Carnegie right now, due to financial concerns, this brought me so much stress at work and affects my mental health as well. That's why I would like to completely cancel my course and not to be involve with Carnegie and (E) anymore."

"It is entirely my fault that I commit to these financing with little knowledge and research, I know that it is too late to cancel the course but I am hoping you could understand my situation here, I come from the Philippines last March 2022 as a dependent visa, I am fairly new around this country as well as the financing stuff".

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.

Mr V paid for the training course through a fixed sum loan agreement from Carnegie. Section 75 of the Consumer Credit Act 1974 ("section 75") sets out that in certain circumstances, as the finance provider, Carnegie is jointly liable for any breach of contract or misrepresentation by the supplier, E.

Also, Section 56 of the Consumer Credit Act 1974 ("section 56") has the effect of making E an agent of Carnegie during the "antecedent negotiations" leading up to Mr V entering into the loan agreement. This means Carnegie can be held responsible for the things E said or didn't say, and what it did or didn't do during the sales process. This would include all the discussions Mr V had with E's salesperson on the day he agreed to buy the course.

Carnegie has provided a number of documents which it said were signed during the process of selling the course to Mr V including the registration form and the loan agreement. Mr V hasn't said that these documents are not genuine or that he did not sign them, so I've proceeded on the basis that these are documents he signed.

It's generally held that if someone has signed a document they are taken to have read and understood it. I think in most circumstances the documents Mr V signed would have left a reasonable person with the impression that they had 14 days to cancel their purchase. So, the starting point here is that Mr V had understood and agreed that he would only have 14 days to cancel his purchase.

Mr V does not appear to have said that he was misled about the cancellation provisions, just that they were not made clear to him. The registration form that Mr V signed was only two pages long and almost half of the second page contained information about the right to cancel within 14 days – including that cancelling the supply contract within this time would automatically cancel the related loan agreement with Carnegie. I've not seen enough to make me think E failed to give Mr V sufficient information about his cancellation rights before he agreed to enrol on the course.

Mr V pointed out a number of negative online reviews about E and Carnegie which he said caused him to lose trust with them. I do understand why this would have concerned Mr V when he'd just entered into a significant time and cost commitment. But as the investigator explained, the experiences of other customers were not necessarily indicative of the

experience Mr V would have. The available evidence does not lead me to conclude E failed to provide the course with reasonable care and skill or misrepresented it to him – indeed Mr V has made little in the way of allegations of such relating to his specific case. I'm not persuaded there was a breach of contract or misrepresentation by E for which Carnegie would be liable.

Mr V also raised concerns with the way identification and payment information were collected from him. The investigator gave detailed reasons as to why she didn't think Carnegie had acted inappropriately in this respect and Mr V doesn't appear to have challenged these.

For the avoidance of doubt however, while I do understand why Mr V would be cautious of giving away information that was not appropriate, I've not seen anything that makes me think E or Carnegie acted inappropriately in the way it collected information from him either. It appears the information asked for was necessary to either verify Mr V's identity or to obtain his authorisation for the deposit or the monthly repayments under the loan agreement.

Overall, having thought about Carnegie's liability to Mr V under the relevant legislation, and taking everything else into account, I've not seen enough to make me think Carnegie unfairly declined Mr V's request to cancel his loan.

I would remind Carnegie however of its obligation under the Financial Conduct Authority Consumer Credit Sourcebook (CONC) 7.3.4R to treat Mr V with forbearance and due consideration in respect of any default or any arrears difficulties he may experience.

My final decision

For the reasons I have explained, my final decision is that I do not uphold Mr V's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr V to accept or reject my decision before 17 November 2023.

Michael Ball
Ombudsman