

## **The complaint**

Mr G complains that CA Auto Finance UK Ltd ("CA Auto") wrongfully terminated an agreement he took out with them.

## **What happened**

Mr G referred a complaint to us along with his representative. As the complainant is Mr G, for ease, I have addressed my decision to him mostly throughout, when referring to what he and his representative have told us.

Mr G took out a personal contract purchase ("PCP") agreement with CA Auto in January 2023 to acquire a used car. The agreement was for 49 months, where Mr G was to make 48 regular, monthly repayments of £499.23, followed by a final balloon payment due at the end of the agreement.

Mr G said he informed CA Auto from the start of his agreement that he was having issues with his personal bank account due to fraudulent activity, and so a payment would be made by a third-party on his behalf.

Mr G said that CA Auto required signed authorisation of this. Mr G said it took some time for these to be sent and this led to arrears accruing on the account.

Mr G spoke to CA Auto in early August 2023 and he said he was advised that he would have a few days to clear the arrears. But he said he wasn't told a date his agreement would be terminated.

On 6 August 2023, Mr G's family member unfortunately passed away. On 9 August 2023, another family member attempted to clear the arrears by making a payment but was notified that Mr G's account had been terminated.

Mr G complained that CA Auto didn't take his personal circumstances into account and asked if they would give him the chance to clear his arrears in full and make payments to them as planned. Mr G also said that he wanted the car to remain in his possession until the issue had been resolved.

CA Auto gave Mr G their final response and said they didn't uphold his complaint. In summary, they said they received an authorisation form granting access for them to communicate with Mr G's family member. And they believe they gave Mr G and his family member plenty of opportunities to address the arrears on the account, however, they didn't believe they were cleared in full in a reasonable time, and in line with the terms and conditions which Mr G signed. So, they said they informed Mr G's family member that the agreement had been terminated and that the car would be repossessed when a part payment was attempted to be made. A default notice was also issued to Mr G in July 2023 to say the agreement would be terminated at the end of the month.

Unhappy with CA Auto's response, Mr G referred his complaint to our service. Our investigator found that CA Auto didn't need to do anything further. In summary, he said that

Mr G was given enough opportunity to make the necessary payments and bring his account up to date, but Mr G hadn't met his obligations under his agreement. Our investigator concluded that CA Auto hadn't acted unreasonably by terminating the agreement.

Mr G disagreed with the investigator's outcome. Among other things, he said that his personal account from which he was to make payments from towards the agreement had been hacked shortly after taking out the agreement. And that this made him anxious about making payments and so appointed a representative to assist meeting his obligations under the agreement. Mr G also explained the recent bereavement he has experienced and the impact it will have if the car is repossessed.

As Mr G disagreed with the investigator's findings, the complaint was passed to me to decide.

### **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'm not upholding this complaint and I'll explain why below.

First of all, I would like to express my condolences to Mr G on the passing of his family member. I do appreciate that dealing with this issue must have been difficult and I want to reassure Mr G I have taken this into consideration when reaching my decision.

However, if there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is a fair outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

This complaint is about a PCP agreement with CA Auto which is a regulated financial product. As such, we are able to consider complaints about it.

What I need to consider is whether CA Auto acted fairly and reasonably in terminating Mr G's agreement when they did.

In order for me to make that finding, I have considered the terms and conditions Mr G agreed to by signing the agreement he took out with CA Auto. Within the terms, it says under section 12 called *Termination by us*:

*"We may terminate the HP agreement...if...you do not pay us any sum on time under either agreement where the total overdue is equivalent to 2 monthly instalments or more..."*

The agreement later goes on to say:

*"If we terminate the HP agreement you will no longer have any rights to keep the Goods and you must return the Goods... to us".*

So, I think it is clear from the terms in what circumstances CA Auto may terminate the agreement and that Mr G would need to return the car.

I can see from account notes CA Auto had provided, Mr G was in arrears by almost £1,500 in May 2023; by over £2,000 at the end of June 2023; and at the time the agreement was defaulted, the arrears were almost £1,400.

Mr G's monthly repayments towards the agreement was around £500. So, considering things here, I'm satisfied the arrears accrued on Mr G's account was more than two monthly instalments. It follows that I'm satisfied CA Auto terminated Mr G's agreement in line with its terms.

Having said that, I have also considered CA Auto's requirements under the Consumer Credit Act 1974 ("CRA") as Mr G believes they didn't adhere to the correct notices in issuing Notice of default sums or a Default Notice. The CRA says under section 88 that a default notice is necessary before a creditor of a regulated agreement can terminate an agreement.

I have seen a copy of a Notice of default sums sent to Mr G's address in both April 2023 and May 2023. I have also seen a copy of a Default Notice sent to Mr G's address in July 2023. Within the Default Notice sent to Mr G in July 2023, it says:

*"Action required to remedy the breach: You are required to pay £1,396.15 by 30/07/2023".*

So, I'm satisfied that the relevant default notice was sent to Mr G and the necessary time passed before his agreement was terminated.

Mr G has explained his apprehension to making payments due to recently being hacked and is why he appointed a representative to help support with making payments to CA Auto. While I have sympathy for Mr G's circumstances, I don't think it negates him from his obligations to make payments, whilst at the same time he benefitted from full use of the car supplied under the agreement. In addition, Mr G appointed a representative to assist with payments, but I can't see that arrears were cleared when the representative was appointed. So, I can't conclude that CA Auto acted unfairly here with taking Mr G's circumstances into account.

Mr G also says that he couldn't gain access to an online portal to make payment at times. I've considered this carefully. I do accept there may have been occasions when Mr G's experience and attempt to make repayments may not have been a smooth journey and there may have been some delays in his ability to make payments. However, I don't think this is enough to absolve Mr G of his obligations under the agreement, as I think CA Auto still gave Mr G enough of an opportunity to clear his arrears in time.

In summary, I don't think CA Auto needs to do anything further.

### **My final decision**

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 4 July 2024.

Ronesh Amin  
**Ombudsman**