

The complaint

Mr O complains that, after he decided voluntarily to terminate a hire purchase agreement he'd taken out on a car, MI Vehicle Finance Limited trading as Mann Island Finance (Mann Island) unfairly recorded two missed payments on his credit file.

What happened

Mr O took out the hire purchase agreement with Mann Finance in August 2020. It was scheduled to last for 60 months.

On 4 April 2023, Mann Island sent Mr O a letter with a quotation to terminate his agreement voluntarily. In it, Mann Island referred to previous communications and said Mr O would have nothing more to pay on his agreement if he decided to terminate it.

Mr O says he agreed to terminate the agreement. And he cancelled the direct debit he had to make his payments under it. But Mr O says, on his way to hand back the car, he was involved in a road traffic accident. He says Mann Island wouldn't take the car back until it was repaired and this took seven weeks. In that time, Mr O missed the April and May payments that were due under his hire purchase agreement.

Mr O says he only became aware of the missed payments when he contacted Mann Island (after the repairs had been done) to say he'd handed back the car. He agreed to pay the arrears in instalments and, when he'd done this, Mann Finance confirmed no balance was owed on his agreement.

Mr O says he thought no more about it until he applied for another financial product and was turned down because the two missed payments were recorded on his credit file. Unhappy with this, Mr O complained to Mann Island.

Mann Island didn't uphold Mr O's complaint. It said it had tried to contact Mr O a number of times about the missed payments, for which he was liable until his agreement was voluntarily terminated, and the missed payments had to be reported to the credit reference agencies to maintain the integrity of its credit reporting system.

So Mr O referred his complaint to us. The investigator who looked at it didn't uphold it. She said Mann Island had made reasonable efforts to contact Mr O about the missed payments and was obliged to report them to the credit reference agencies.

Mr O disagrees with our investigator's view and has asked for an ombudsman to review his complaint.

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.

I've also considered the relevant law and regulations, any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time.

Having done so, I've decided not to uphold Mr O's complaint. I know this will disappoint Mr O but I hope the reasons I'm about to give help him understand why I've reached this conclusion.

Mr O was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we're able to look at complaints about it.

Mr O's hire purchase agreement has the following terms and conditions that are relevant here:

- Mr O must make the payments shown in his agreement in full and on time, failure to do so being a "*serious breach*" of the agreement.
- Mr O's payments must be made by direct debit, unless agreed otherwise.
- Mr O must keep up the payments even if he can't use the car for a period of time.
- Mann Island will send all notices, information and statements to the address shown in Mr O's agreement or his last known address (though it also says some notices may be sent by email or text or may be delivered by phone).
- If Mr O doesn't pay Mann Island in full and on time, the credit reference agencies will record the outstanding debt.

The voluntary termination quotation Mann Island sent Mr O says, if he decides to voluntarily terminate his agreement, the car must've been "*looked after*" during the period of the agreement. It says failure to do so – which would include damage other than fair wear and tear – may result in "*recharges*" under his agreement.

It's not in dispute that Mr O missed two payments under his hire purchase agreement. I think this was probably because Mr O cancelled his direct debit in anticipation of voluntarily terminating his agreement and handing back the car. But, because of the accident, I don't think he terminated his agreement when he'd expected it to – and so, with no direct debit in place, the two payments were missed.

But Mann Island sent Mr O a letter dated 13 April 2023 (a copy of which I've seen) saying it had been notified of the direct debit cancellation by Mr O's bank and that failing to make payments by direct debit was a breach of his agreement. The letter was sent to the address set out on Mr O's agreement and asked Mr O to set up a new direct debit as soon as possible.

After Mr O missed his first payment, Mann Island sent him another letter (to the same address) (a copy of which I've seen) dated 21 April 2023 saying he'd missed a payment and asking him to pay the arrears and set up a direct debit.

Mann Island says it also sent letters to Mr O on 25 May 2023 and 2 June 2023 and emails on 20 April 2023, 28 April 2023, 22 May 2023, 30 May 2023 and 12 June 2023. And Mann Island says it made four calls to Mr O between the end of April and the middle of June 2023. I haven't seen copies of these letters and emails or records of these calls. But I have seen a copy of a letter Mann Island sent to Mr O (at the address on his agreement) dated 3 July 2023 referring to a shortfall following the voluntary termination of his agreement – that is, the arrears from the two missed payments.

Mr O says he wasn't aware of the missed payments until he contacted Mann Island after he'd handed the car back. He says this was because he was no longer living at the address noted on his agreement and his mail wasn't being passed on to him. Mr O says it wasn't until after he'd finished paying the arrears that he found Mann Island's emails in his junk email folder. Mr O says his payment record for his mortgage, store cards and credit cards was perfect and he's never missed a single payment. And Mr O says when he first contacted Mann Island about the records on his credit file, he was told to make a complaint and ask for the markers to be removed as a goodwill gesture – but this didn't happen.

I understand this turn of events has had unfortunate consequences for Mr O. But I don't think Mann Island has treated him unfairly or unreasonably. I say this because:

- The terms and conditions of Mr O's agreement say his car must've been "*looked after*" during the hire period – so I think it was fair and reasonable of Mann Island not to agree to the voluntary termination of Mr O's agreement until the repairs were done (unless Mr O agreed to the "*recharges*" I've already mentioned).
- The terms and conditions of Mr O's agreement are clear that (a) he remains liable for all payments under it until it comes to an end and (b) he must make the payments by direct debit. I think Mr O ought reasonably to have known he'd remain liable for payments until he voluntarily terminated the agreement and handed the car back – including for the period when the car was being repaired.
- The terms and conditions of Mr O's agreement say all notices, etc, will be sent to the address shown on his agreement. The letters I've seen show they were sent to the address shown on Mr O's agreement.
- Mann Island contacted Mr O a number of times – it says by letter, email and phone – about the missed payments. Although Mr O says he didn't get these communications, I've seen nothing to suggest this was because of anything Mann Island did wrong.
- As a matter of fact, Mr O missed two payments on his agreement. While I understand Mr O is concerned about the impact of this on his credit file, Mann Island has a responsibility to report information accurately to the credit reference agencies. I haven't seen Mr O's credit file but – assuming the two missed payments have been recorded accurately – I don't think Mann Island has done anything wrong in reporting them as such.

My final decision

For the reasons I've given, I don't uphold Mr O's complaint.

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

Jane Gallacher
Ombudsman