

## The complaint

Mr M complains that a credit agreement with CA Auto Finance UK Limited, under which a car was supplied to him, was mis-sold to him, and that the car wasn't of satisfactory quality. He's being helped with his complaint by a representative.

## What happened

I issued a first provisional decision on this complaint last month in which I described what had happened as follows:

*"A used car was supplied to Mr M under a personal contract purchase and fixed sum loan agreement with CA Auto Finance that he electronically signed in August 2023. The price of the car (as shown on the agreement) was £17,995 and the agreement also included a guarantee which had a price of £2,190. Mr M part-exchanged a car and £7,000 of the value of it was used as an advance payment, and he agreed to make 48 monthly payments of £223.80 and a final payment of £8,845 to CA Auto-Finance. Mr M paid £13,199.37 to CA Auto Finance to end the agreement three days after he'd signed it.*

*There were some issues with the car so Mr M complained to the dealer. It didn't respond to his complaint so Mr M complained to CA Auto Finance in January 2024 that the car wasn't of satisfactory quality and about some other issues. It didn't uphold his complaint and said that it no longer held a financial interest in the car and that Mr M was the legal owner of it but it paid for one of the car's tyres to be replaced.*

*Mr M wasn't satisfied with its response so complained to this service. His complaint was looked at by one of this service's investigators who, having considered everything, thought that the agreement had been mis-sold and that Mr M should be able to reject the car. He recommended that CA Auto Finance should end the agreement and collect the car, refund Mr M's part exchange contribution of £7,000; pay a refund of rentals to cover any loss of use, or impaired use, of the car because of the inherent quality issues; pay interest on all refunded amounts; and remove any reference to the agreement from Mr M's credit file.*

*CA Auto Finance didn't accept the investigator's recommendation so I've been asked to issue a decision on this complaint. It says that Mr M withdrew from the agreement, thereby nullifying it so it can't be in breach of it. It says that Mr M entered into the agreement in August 2023 but withdrew from it three days later and paid it £13,199.37 so there was no contract with him and it hasn't been recorded on his credit file. Mr M's representative says that the agreement has already been settled and that the price of the car was £1,000 more than Mr M was told it would be, and his representative has asked what the refunds will be if the car is returned".*

## First provisional decision

I set out my provisional findings in my first provisional decision and said:

*“CA Auto Finance says that Mr M withdrew from the agreement within the withdrawal period which nullified the agreement. CA Auto Finance wrote to Mr M in August 2023 and said: “... your finance agreement with us has now been settled in full...”. Mr M complained to CA Auto Finance about a number of issues in January 2024 and, whilst it responded to those issues in detail, it didn’t say that Mr M had withdrawn from the agreement in August 2023 but said: “We no longer hold a financial interest in the above vehicle and you are the legal owner of the goods”. CA Auto Finance hasn’t been able to provide a copy of the recording of the call when it was phoned about a payment to end the agreement but its account notes show that it was called “... to pay full agreement”. I’m not persuaded that there’s enough evidence to show that Mr M withdrew from the agreement and I consider it to be more likely than not that he settled the agreement.*

*CA Auto Finance, as the supplier of the car, was responsible for ensuring that it was of satisfactory quality when it was supplied to Mr M. Whether or not it was of satisfactory quality at that time will depend on a number of factors, including the age and mileage of the car and the price that was paid for it. The car that was supplied to Mr M was nearly three years old, had been driven for about 11,400 miles and the price of the car set out in the agreement was £17,995. Satisfactory quality also covers durability which means that the components within the car must be durable and last a reasonable amount of time – but exactly how long that time is will depend on a number of factors.*

*Mr M says that the car was sold with an incorrectly sized tyre on one of the wheels and CA Auto Finance paid for the tyre to be replaced. He also says that there was a noise from the car’s steering and he’s been told that the left front suspension top mount is noisy and dry. The car had passed an MOT test in June 2023, before the car was supplied to Mr M, when its mileage was recorded as 11,403 miles, and it passed another MOT test in June 2024 when its mileage was recorded as 13,193 miles. No issues with the car were identified at the time of either of those MOT tests. The car was also serviced in June 2024 and Mr M has provided information from the service but I’m not persuaded that it shows that there were any issues with the car beyond what would be considered to be fair wear and tear.*

*Mr M says that he was pressured by the dealer into entering into the agreement despite him telling it that he didn’t want or need finance. Mr M was 84 years old when he entered into the agreement so he would have been 88 years old when it ended. He says that he didn’t understand the agreement he was entering into, including the payment at the end, the interest amount and how much he would have to pay under the agreement. CA Auto Finance says that it carried out basic affordability checks before Mr M entered into the agreement but that it conducted no further checks to consider Mr M’s possible vulnerability or whether finance was a suitable option for him.*

*One of the issues about which Mr M has complained, and which was also described by his representative in response to the investigator’s recommendation, is that the price of the car was £1,000 more than Mr M was told that it would be. He says that the advert for the car that he was shown when he first saw the car on the dealer’s computer screen was £16,995 but the next day, when the car was supplied to him, it had a price of £17,995. He says that the dealer shouldn’t have altered the price without mentioning it to him.*

*The price of the car as shown on the finance agreement was £17,995 but, in its final response letter to Mr M, CA Auto Finance included the original advert for the car. Much of the information on that advert isn’t legible, but the cash price of the car is*

clearly shown as £16,995. I've seen no explanation as to why the cash price of the car increased from £16,995 to £17,995.

Mr M settled the agreement three days after he entered into it which is consistent with what he's said about not needing the finance and having the money available to buy the car. CA Auto Finance's account notes show that Mr M complained to it twelve days after he'd settled the agreement that: "... he was forced to take finance out and isn't happy"; and that it: "... advised ... him to speak to dealership and express his concerns".

Having carefully considered all of the information that has been provided, I consider it to be more likely than not that the finance agreement was mis-sold to Mr M by the dealer and that, if it hadn't been mis-sold to him, Mr M would have bought the car in cash and that he'd have paid £16,995 for it. I'm not persuaded that it would be fair or reasonable in these circumstances for Mr M to be able to reject the car but I find that it would be fair and reasonable for CA Auto Finance to refund to Mr M the difference between the amounts that he's paid for the car and the advertised price of the car of £16,995 (and that it should pay interest on that amount).

Mr M made a contribution of £7,000 towards the price of the car and he paid £13,199.37 to settle the agreement in August 2023, so he's paid a total of £20,199.37 for the car. The difference between that amount and the advertised price of the car of £16,995 is £3,204.37. I find that it would be fair and reasonable in these circumstances for CA Auto Finance to refund £3,204.37 to Mr M, with interest.

Mr M's representative has described the impact of these events on Mr M, and the stress and worry that it's caused him. Mr M has been able to use the car since August 2023 and I'm not persuaded that it would be fair or reasonable for me to require CA Auto Finance to make any payments to Mr M, other than the refund and interest that I've described above".

CA Auto Finance said that a warranty and paint protection were purchased by Mr M and were included in the finance agreement so it paid upfront for them and Mr M will have had the use of those products. Mr M said that he'd like compensation and that he didn't want or use the warranties.

## **Second provisional decision**

I issued a second provisional decision on this complaint earlier this month in which I said:

*"The finance agreement included £2,190 for a guarantee and there was a charge for credit of £680.88 for that guarantee. CA Auto Finance says that it was for a warranty and paint protection which it would have been paid for upfront and that Mr M has had the use of those products. When he complained to this service, Mr M described the way that those products were sold to him, that he didn't think that he had any option but to take them and he didn't realise that he was paying for them. In response to my provisional decision he's said that he didn't want and hasn't used the warranties.*

*I consider it to be more likely than not that those products were also mis-sold to Mr M. I'm not persuaded that Mr M should be required to pay for those products so I'm not persuaded that the cost of those products, or the interest payable on them, should be deducted from the amount that I've recommended should be refunded to Mr M.*

*Mr M says that he'd like compensation and I've thought more about the impact that*

*these events have had on him. Mr M is elderly and I consider that the finance agreement was mis-sold to him. That's clearly caused him distress and inconvenience and I consider that it would be fair and reasonable for CA Auto Finance to pay £200 to Mr M to compensate him for that distress and inconvenience. I'm not persuaded that a higher payment of compensation is justified in these circumstances.*

*I said in my provisional decision that CA Auto Finance should refund £3,204.37 to Mr M, with interest and I find that it would be fair and reasonable for that to happen. I find that it would also be fair and reasonable for it to pay £200 to Mr M to compensate him for the distress and inconvenience that he's been caused".*

Subject to any further comments or evidence that I received from any of Mr M, his representative and CA Auto Finance, my provisional decision was that I intended to uphold this complaint and to order CA Auto Finance to: refund £3,204.37 to Mr M, with interest, and to pay him £200 compensation.

Mr M has accepted my provisional decision but CA Auto Finance says that it agrees with the £1,000 refund for the price difference but Mr M will still benefit from the paint protection and warranty regardless of his claim that he won't so it can't accept covering the full cost of those products. It says that it would be reasonable in these circumstances to return to Mr M 50% of the costs associated with those products.

### **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 said in my first provisional that I considered it to be more likely than not that the finance agreement was mis-sold to Mr M by the dealer and that, if it hadn't been mis-sold to him, Mr M would have bought the car in cash and that he'd have paid £16,995 for it. I said in my second provisional decision that I considered it to be more likely than not that the warranty and paint protection were also mis-sold to Mr M. I'm not persuaded that Mr M would have paid for those products if they hadn't been mis-sold to him so I don't consider that the cost of those products, or the interest payable on them, should be deducted from the amount that I've recommended should be refunded to Mr M.

### **Putting things right**

I find that it would be fair and reasonable in these circumstances for CA Auto Finance to refund £3,204.37 to Mr M, with interest, and to also pay him £200 to compensate him for the distress and inconvenience that he's been caused.

### **My final decision**

My decision is that I uphold Mr M's complaint and I order CA Auto Finance UK Limited to:

1. Refund £3,204.37 to Mr M.
2. Pay interest on that amount at an annual rate of 8% simple from the date of the finance agreement to the date that the refund is paid.
3. Pay £200 to Mr M to compensate him for the distress and inconvenience that he's been caused.

HM Revenue & Customs requires CA Auto Finance to deduct tax from the interest payment referred to above. CA Auto Finance must give Mr M a certificate showing how much tax it's deducted if he asks it for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 21 April 2025.

Jarrold Hastings  
**Ombudsman**