

The complaint

Mr M complains that Zuto Limited failed to treat him fairly when it released funds for the purchase of a used car to the dealer before he had given his agreement for the purchase to be completed.

What happened

I issued a provisional decision on this complaint last month. In that decision I explained why I thought part of the complaint should be upheld and what Zuto needed to do to put things right. Both parties have received a copy of the provisional decision but, for completeness, I include some extracts from it below. In my decision I said;

Zuto was acting as a credit broker to arrange the funding required by Mr M for the purchase of a used car in July 2023. It arranged a hire purchase agreement for Mr M with the lending being provided by another party. Mr M told Zuto that he had identified a car he wished to purchase and Zuto arranged the necessary finance for that transaction.

Mr M lived some distance away from the car dealer. So initially he was reliant on information provided by the dealer, both in the initial advert and in a later video tour of the car, when making his decision to proceed with the purchase of the car. He made it clear to Zuto that he would not be able to physically inspect the car, or confirm his purchase, until he visited the dealer. But, given the distances involved, Mr M was keen to only make a single visit to the dealer, hoping to drive the car away after he had inspected it. So it made sense that he arranged the finance needed in advance of that initial visit.

Zuto confirmed to Mr M that his finance had been agreed and the funds would shortly be received from the lender. Mr M asked that Zuto not release the funds to the car dealer until he had inspected the car and confirmed his purchase. Zuto agreed to that request. But, due to an administrative error, the funds were paid to the car dealer before Mr M's visit.

Mr M discussed the error with Zuto. Zuto confirmed that the release of the funds placed no obligation on Mr M to proceed with the purchase. But it warned him that it might take around a week for the funds to be repaid by the car dealer and for a new credit application to be approved on an alternative car.

Mr M visited the dealer and decided to proceed with the purchase of the car. I understand that subsequently Mr M has raised some issues about whether the car was of a satisfactory quality when it was sold. Our investigator explained to Mr M that any complaints of that nature would not be the responsibility of Zuto in its role as a credit broker, but any complaint should instead be directed to the lender. So in this decision I will only be dealing with Zuto's actions in releasing the funds to the car dealer in advance of Mr M's decision to proceed with the purchase.

Zuto didn't agree with Mr M's complaint. It told him that it thought he had agreed that the funds could be released to the car dealer. So it didn't think it had done anything wrong or that the complaint should be upheld. Unhappy with that response Mr M brought his complaint to us. Zuto then told us that it had reviewed what had happened and now accepted it had made an error in releasing the funds. But it didn't think that error had placed any obligation on Mr M to purchase the car. So it still thought the complaint shouldn't be upheld.

Zuto now accepts that it failed to follow Mr M's instructions by releasing the funds to the car dealer before Mr M had decided to complete the purchase. So what I need to consider in this decision is the impact of that error – and in particular whether the error placed any obligation or pressure on Mr M to continue the purchase.

Finance, such as the hire purchase agreement taken by Mr M here, is specific to a particular vehicle. So, should Mr M have chosen to not purchase the car in question, he would have needed to request a new agreement from the lender. But, as Zuto explained to him, the documentation Mr M had previously supplied could have been reused, and so might have made that application process quicker than his initial request.

I have listened carefully to what Zuto told Mr M following its error in paying the funds to the car dealer. I am satisfied that Zuto explained, and Mr M understood, that the error did not place any obligation on him to complete the purchase. But I accept that, aware the dealer was in possession of the payment, it might have caused Mr M to feel some pressure to take that car. When he called Zuto it is clear that he was at that time undecided whether to stop the purchase and look at an alternative car another dealer had offered him.

But whilst Mr M might have been faced with a difficult decision, and potentially some embarrassment in his conversations with the car dealer, I am not persuaded he had any belief that the purchase must be completed. I think he could have chosen to stop the transaction, either before visiting the dealer, or even after test driving the car.

So I am not currently persuaded that Zuto's error caused Mr M to complete a purchase that he did not want to make. It is possible that, in the days following his purchase Mr M might have faced some "buyer's remorse" and wished he had taken a different decision when he test drove the car. But I am not persuaded he thought Zuto's error meant he could not decline the purchase.

So I don't currently think Zuto needs to do anything in terms of Mr M's responsibilities under the hire purchase agreement that he signed, or in relation to the car that he was supplied with under the agreement. But I do think Zuto's mistake will have caused some distress or inconvenience to Mr M. So I currently agree with our investigator that Zuto should make a payment of £150 to Mr M in that regard.

I invited both parties to provide us with any further comments or evidence in response to my provisional decision. Neither Mr M nor Zuto have provided us with anything further.

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.

As I set out in my provisional decision, in deciding this complaint I've taken into account the law, any relevant regulatory rules and good industry practice at the time. I have also carefully considered the submissions that have been made by Mr M and by Zuto. Where the evidence is unclear, or there are conflicts, I have made my decision based on the balance of probabilities. In other words I have looked at what evidence we do have, and the surrounding circumstances, to help me decide what I think is more likely to, or should, have happened.

And I repeat my reflections on the role of this service. This service isn't intended to regulate or punish businesses for their conduct – that is the role of the Financial Conduct Authority. Instead this service looks to resolve individual complaints between a consumer and a business. Should we decide that something has gone wrong we would ask the business to put things right by placing the consumer, as far as is possible, in the position they would have been if the problem hadn't occurred.

Given that neither party has provided me with any new evidence or further comments I see no reason to alter the conclusions I reached in my provisional decision. So I don't think Zuto needs to do anything in terms of Mr M's responsibilities under the hire purchase agreement that he signed, or in relation to the car that he was supplied with under the agreement. But I do think Zuto's mistake will have caused some distress or inconvenience to Mr M. So I think that Zuto should make a payment of £150 to Mr M in that regard.

Putting things right

I direct Zuto to pay Mr M £150 for the distress or inconvenience he has been caused by the premature release of the funds to the car dealer.

My final decision

My final decision is that I uphold a part of Mr M's complaint and direct Zuto Limited to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 14 August 2024.

Paul Reilly
Ombudsman