

## **The complaint**

Mrs S is unhappy that CA Auto Finance UK Ltd (CA) are wrongly pursuing her for payments towards a fixed sum loan agreement.

## **What happened**

In March 2021 Mrs S was supplied with a used car through a fixed sum loan agreement with CA. She paid an advance payment of £2,545.35 and the agreement was for £15,646 over 60 months: with 59 payments of £260.75 and a final payment of £261.75.

Mrs S said that she made a partial settlement payment of £5,000 on 29 January 2024. She said that CA told her she need to pay a further amount of £260.75 to settle the agreement. She said that CA then contacted her and asked her to pay a further £301. She said that she'd been misinformed and shouldn't have to pay any more to CA.

CA said that Mrs S had paid £5,000 on 29 January 2024. They said they then sent a partial settlement quote to her dated 5 February 2024. They said Mrs S needed to pay £260.75 on 28 February 2024, but they couldn't take this because the direct debit had been cancelled. They said the next payment of £41.68 wasn't paid so that meant Mrs S' account was £302.43 in arrears.

CA said they'd explained to Mrs S that in order to apply a partial settlement the amount had to be paid five working days before the next payment was due. They said she'd made the payment on 29 January 2024, just two days before her next monthly payment was due. This didn't allow them sufficient time to apply the £5,000 she'd paid to her account as a partial settlement.

Mrs S was unhappy with this response, so she referred her complaint to our service for investigation.

Our investigator said that CA had offered Mrs S two options to repay the outstanding amount and had offered her £50 compensation, but they hadn't put this in place. She said they should arrange the repayment plan as accepted by Mrs S, ensure there was no impact on Mrs S' credit file, and pay a further £50 for the distress and inconvenience caused.

Both Mrs S and CA accepted this outcome.

In June 2024 Mrs S contacted our investigator after CA had called her to set up the direct debit. She said they were still pursuing her for the £260 they said was outstanding. On 1 July 2024 she received a default notice saying she owed £427.47. Mrs S said she found this stressful and upsetting.

Our investigator contacted CA. They said they had now contacted Mrs S and the matter should be resolved. But Mrs S told our investigator she hadn't been contacted by CA. Our investigator followed this up again with CA, and they said the matter would be resolved by 26 July 2024.

Mrs S said the matter had not been resolved so our investigator issued a second opinion. She said that the agreed compensation of £100 had now been paid, but the direct debits had not been set up. She said this had now put Mrs S in a worse financial position as their delays had shortened the available repayment term.

Our investigator said CA should honour the original repayment offer. This meant they needed to extend the term to ensure the monthly payments didn't exceed £49.38. And if they were unable to extend the period, they would need to cover any shortfall with no impact on her financially or on her credit file. She also said CA should pay a further £50 in compensation.

Mrs S accepted the opinion but asked that given the lack of empathy CA should write off some or all of the amount owed.

Because CA didn't respond, this matter has been passed to me to make a final decision.

### **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've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome. Where evidence has been incomplete or contradictory, I've reached my view on the balance of probabilities – what I think is most likely to have happened given the available evidence and wider circumstances.

In considering this complaint I've had regard to the relevant law and regulations. Mrs S was supplied with a car under a fixed sum loan agreement. This is a regulated consumer credit agreement which means we are able to investigate complaints about it.

CA supplied Mrs S with information about how to make a payment to partially settle the agreement. Mrs S appears to have followed those instructions and made a payment of £5,000 and was ready to pay the new monthly amount of £49.38.

But it appears to me they followed this with contradictory and unclear correspondence. It isn't clear from those communications whether or not they'd received the £5,000 she'd paid, or what had been credited to her account. She received arrears letters with differing amounts; she also received correspondence from CA admitting they had made mistakes, offering her compensation, and advising her to ignore letters.

So it's no surprise to me that Mrs S was confused, distressed and upset. Especially when their final response letter to her complaint, makes no reference to the two messages of 6 February 2024 and 8 March 2024 acknowledging their errors, and then compounds this by sending her a default notice. It's also disappointing to see that they seemed to have ignored their own case notes.

As a regulated firm, CA is required to communicate with their customers clearly and fairly, and not mislead. This is set out in the FCA's principle 7. I don't think they've done that in this instance.

So I'm satisfied that it's reasonable that they agree a repayment plan as originally offered to Mrs S on 8 March 2024. It's not clear to me why they've so far failed to set up the necessary direct debits. So I think it's reasonable that they do so now, without penalising Mrs S. It appears to me that she has been corresponding regularly with CA, and was keen to resolve matters speedily. If they had done so, a payment plan would now be in place. So it's

reasonable that her monthly payments do not exceed the amount agreed on 8 March 2024.

It's also unreasonable for CA to record missed payments on Mrs S' credit file. It's normally reasonable and beneficial to all parties to record accurate information on credit files. But in this instance, the delays have all been caused by CA, whilst Mrs S has been keen to make the payments. So to record missed payments would be unfair and unreasonable as they were not of her making.

I have considered Mrs S' request that the outstanding amounts be cleared in full or in part. But I don't think that would be reasonable, despite the obvious frustration with CA's failure to act promptly, or at all. This was money borrowed so it's reasonable that, in this instance, it is repaid.

### **Putting things right**

CA must

- Contact Mrs S without delay, arrange a repayment plan and set up the necessary direct debits. They should extend the term of the agreement to ensure the monthly repayment amount does not exceed £49.38. If CA are unable to extend the term, they must cover the payments over this amount on behalf of Mrs S.
- Remove any negative markings on Mrs S' credit file arising from this issue.
- Pay a further £100 for the distress and inconvenience caused to Mrs S, making the total award £150.

CA must take into account Mrs S' financial position when considering the repayment plan. I remind them of their obligation to treat Mrs S fairly as required by Principle 6 (customers' interests).

### **My final decision**

For the reasons explained, I uphold Mrs S' complaint about CA Auto Finance UK Ltd and they are to follow my directions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 25 November 2024.

Gordon Ramsay  
**Ombudsman**