

The complaint

Mrs L complains about the actions of Pendragon Finance and Insurance Services Limited, trading as Evans Halshaw (Evans Halshaw) concerning the set up and the cancellation of car finance agreements that they brokered.

What happened

In January 2023, Mrs L entered into a car finance agreement for a used car with a lender who I will refer to as D. She returned the car within the 14 day money back guarantee. She said she was told by Evans Halshaw that the agreement with D would be cancelled.

Shortly thereafter, she decided to purchase another used car. She entered into another finance agreement with D for that second car. However she said that conversation about the finance with Evans Halshaw was rushed and over the phone while she was at work.

Mrs L said when she received the finance documents via post for the second agreement, she noticed the monthly instalments were £360 which was higher than what was discussed (£328). She also said the car's cash price was higher than what she was led to believe. Evans Halshaw said they couldn't amend the agreement but had found an alternative lender with lower monthly instalments who I refer to as T. Evans Halshaw said they would cancel and settle D's agreement and set up a new one with T but in the meantime she would have two active agreements on her credit file for a short period of time.

At the start of March 2023, Evans Halshaw sent Mrs L an email regarding the second agreement. They said *"All approved as of this morning. Your finance is in the process of being cancelled. We will return all funds over to the lender today"*. Mrs L understood this to mean the agreement would be settled on that day. However shortly thereafter, she complained she had received correspondence from D that payments had been missed and it had negatively impacted her credit file.

D's agreement was later settled in April 2023. Mrs L was also concerned D's agreement hadn't been settled in full as the amount paid differed to the demand letters she'd received. She complained about the above to Evans Halshaw and outlined the impact the situation was having on her health, financial circumstances and her credit file.

In summary, Evans Halshaw said:

- The return of the initial car wouldn't have necessarily been any quicker than an exchange. It would've taken approximately seven to ten days for the money to be returned to the account. The delay wasn't excessive due to the administration and the parties involved.
- As Mrs L's details were already held, it was reasonable for the purchase of the second car to be carried out by telephone rather than face to face. If she wasn't happy with this, she could've asked for it to be conducted in another way.

- The second car was advertised at £22,990 inclusive of VAT and all the point of sale documents confirmed the same.
- The documents for the second agreement with D were sent to her for approval which she electronically signed. If Mrs L was concerned about the monthly instalments, she could've raised this to Evans Halshaw before signing.
- As Mrs L was unhappy with the cost of the monthly instalments for the second agreement with D, Evans Halshaw applied for finance with an alternative lender (T).
- The dealership hadn't processed the return of the advance payment to D in a timely fashion which led to Mrs L being charged for payments she didn't owe. Given the delay to settle the second agreement, they had asked D to remove the adverse information from her credit file and they would pay £200 compensation.

Unhappy with their response, Mrs L referred the complaint to our service. Our investigator recommended the complaint wasn't upheld. He agreed there was a delay in settling D's agreement but £200 compensation was a fair resolution to the complaint.

Mrs L disagreed and maintained her stance. She emphasised Evans Halshaw gave her incorrect information about the monthly payments and delayed in cancelling the agreement. She stressed they failed to consider the impact of the situation on her finances and the effort she had to go through to get matters resolved.

As an agreement couldn't be reached, the complaint was referred to me to decide.

In September 2024, I sent my provisional thoughts to both parties outlining my intentions to partially uphold the complaint. In summary, I said:

- Mrs L had complained about a number of issues including the fact she was told the monthly payments for the car with D would be around £328 however she later found it was £360.
- The copy of the conversation with Evans Halshaw when that second agreement was discussed hadn't been provided however I had read the transcript of the initial conversation when the first agreement was discussed.
- Having done so, it's clear Mrs L didn't want any of the additional products to be added to the finance agreement – e.g. warranty, GAP and cosmetic protection. She said if she decides to buy the same, she would pay for this separately.
- However when she entered into the second agreement with D, these insurance and products had been added to the agreement at a total cost of £1,511.
- The agreement says these products added a monthly cost of £32. I believe it's more likely than not during that second conversation with Evan Halshaw, Mrs L was told the monthly payments would be £328. But that was for the car alone, not including the monthly cost for the additional products meaning it brought the monthly payments to £360.
- Given the previous conversation and Mrs L's clear decision on these products, it's unclear how and why they were added. There's insufficient evidence that Evans Halshaw discussed it with her and she agreed for it to be added to the agreement. On balance, I find these products were added to the agreement without her knowledge or consent.
- Due to this failure, the second agreement with D had to be cancelled and a new one sought with T but there was then a delay in settling it which Evans Halshaw accept.

As a result, adverse information was reported to her credit file, she was sent arrears notices and the situation caused her worry and upset.

- These failings had negatively impacted Mrs L including her credit file which I don't believe had been fairly been taken into consideration by Evans Halshaw. So in addition to the £200 already offered, I intend to say an additional £150 compensation should be paid for the trouble and upset caused. Meaning a total of £350 compensation to resolve this complaint.

Response to my provisional thoughts

Evans Halshaw said Mrs L was aware of the additional products. They said for both cars she agreed to purchase the paint and fabric protection and the asset protection insurance policy and the car sales invoices supports that. They disagreed that the products were added without her express knowledge or permission. They also commented although she didn't want the products added to the credit agreement, they were most likely added to the invoice after the conversation with their advisor but before the car was delivered. They maintained their stance that if Mrs L didn't want these products, she wouldn't have signed so many documents which included them without raising a concern or asking them to be removed. Their offer of £200 remains unchanged.

Broadly speaking, Mrs L agreed with the provisional decision but didn't believe the compensation was enough. She said this situation had led to detrimental consequences on her financial situation, including but not limited to the reduction of her credit card limit due to the missed payments being recorded by D. She also said because two car finance agreements were added to her credit file, her overall indebtedness increased significantly and this negatively impacted her credit score. She explained this matter has led to other consequences impacting her and her family. She wants Evans Halshaw to compensate her £2,256, which she's calculated to represent the estimated balance had her credit utilisation not been impacted, and to also pay £350 compensation.

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 thank both parties for their responses which I've carefully considered.

In this decision, I've primarily focused on what was discussed about the second car. However in the absence of the specific call where this second finance agreement was discussed with Evans Halshaw, I've also taken into consideration what was discussed regarding the first car as it's likely to give an indication about Mrs L's preferences.

As outlined in my provisional decision, during that call in January 2023, Mrs L made it clear she didn't want the additional products added to the agreement. However I can see there is a document where she has signed for the asset protection insurance policy two days after that all. I've considered the sales invoices for the first car and there are two signed versions, one with the products, one without. So there is conflicting information as to whether Mrs L wanted these additional products or not. She maintains she didn't want them added to the credit agreement.

For the second car in question subject to this decision, again there are two purchase invoices, one includes the additional products, one doesn't, but neither are signed by Mrs L. So I can't say with any certainty which one or indeed either was provided to her for consideration and approval before she entered into the agreement. Equally unlike the first car, there is no additional document which shows Mrs L signed to have the asset insurance policy.

Evans Halshaw appears to accept Mrs L didn't want the additional products added to the credit agreement but they've said they were most likely added after their conversation with her but before the car was delivered. However they haven't provided sufficient evidence to support those version of events. Interestingly, I note when the later agreement with T was set up, there doesn't appear to be any products added to that agreement which further supports my opinion that Mrs L didn't want them to be added.

I'm not persuaded that when discussing the finance agreement for the second car, Evans Halshaw sufficiently made it clear to Mrs L that they had added all the additional products to the agreement (that is, warranty, asset protection and cosmetic protection). Nor do I believe those additional costs were made clear to her and she agreed to it. So I can't say Evans Halshaw gave enough information for her to make an informed decision.

Evans Halshaw has argued Mrs L signed the finance agreement with the products and while I accept the same and there was onus on her to fully check the documents before signing it, that doesn't negate their obligations to make sure she was fully aware of these products and their associated costs before she entered into the agreement.

On balance, I find Evans Halshaw told Mrs L the monthly payments would be £328 but failed to stress that was for the car alone. I believe it's more likely than not they added the additional products without her informed consent or at the very least, they didn't make these additional costs clear to her meaning the monthly instalments would be a total of £360. So I can understand Mrs L's shock when she realised the monthly instalments were higher than expected.

Mrs L also complains the car was advertised at £20,000 but she later found the cash price was closer to £23,000. Ideally I would've been provided with a copy of the car's online advert however neither party have been able to do so therefore I've relied on the point of sale documentation provided. Having done so, they all state the cash price of the car is £22,990. In light of the above failings by Evans Halshaw, I turn to Mrs L's response. I would like to thank her for her openness and honesty. I recognise this has been a difficult time for her and her family. I've carefully considered what she's said. If I don't comment on something, it's not because I haven't considered it, it's because I've concentrated on what I think are the key issues.

I'm satisfied Evans Halshaw made it clear to her that until the agreement was cancelled, there would be two car finance agreements added to her credit file. They accept there was a delay in settling the second agreement and it negatively impacted her credit file, for that they've offered £200 compensation.

Mrs L doesn't believe that's enough and has explained the further impact this situation has had on her finances including but not limited to the reduction of her credit limit. She's provided evidence from her credit card provider (dated around the time of these agreements) which confirms due to information recorded by the credit reference agencies, the decision had been taken to reduce her credit limit. She asserts this is a result of this situation with Evans Halshaw and wants to be compensated.

Having carefully considered what Mrs L has said, I can understand why she feels strongly about this matter. However in order to award compensation for financial losses I must be satisfied that it was a direct result of the business' failing. In this case, that would mean I would need to be satisfied had it not been for Evans Halshaw's failings, Mrs L's credit card limit wouldn't have been reduced.

While I accept Mrs L's credit score is mostly likely to have been impacted by this situation, without sight of her full credit file or further documentary evidence, I can't reasonably say that was the sole reason for the credit limit reduction.

The decision to lend or reduce lending is a commercial one made by a financial business and while an individual's credit score will undoubtedly be a consideration, there are many other factors that are taken into account. In the absence of strong and compelling documentary evidence, I can't reasonably say Evans Halshaw needs to pay £2,256 as Mrs L has requested. However I have taken this into account when thinking about the overall trouble and upset caused.

Mrs L has complained about the overall level of service by Evans Halshaw, based on what I've seen including the amount of correspondence and her numerous attempts to resolve matters, I agree the level of service fell below what a reasonable person would expect.

She had the worry of not knowing whether D's agreement had been settled in full and the worry that if it hadn't, it would continue to negatively impact her credit file. I'm sorry to hear about the impact of the situation on Mrs L, I appreciate this was a difficult and stressful time for her and I recognise the impact of it on her health, financial situation and wider circumstances. Given the circumstances, I find Evans Halshaw should increase the level of compensation from £200 to £350 for the trouble and upset caused.

My final decision

For the reasons set out above, I've decided to partially uphold Mrs L's complaint.

To put things right, Pendragon Finance and Insurance Services Limited, trading as Evans Halshaw must pay a total of £350 compensation to Mrs L for the trouble and upset caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms L to accept or reject my decision before 8 November 2024.

Simona Reese
Ombudsman