

The complaint

Mr S complains that Close Brothers Limited unfairly closed his credit facility.

What happened

On 11 January 2023 Mr S entered into a conditional sale agreement for a car. Under the terms of the agreement, he was to pay £416.12 a month for four years.

Mr S set up a direct debit instruction to make the payments, but in April 2023 the direct debit payment was rejected and by July 2023 the payment instruction had been cancelled. Close Brothers agreed to change the date on which the direct debit was to be taken, and Mr S made a number of payments by debit card.

By December 2023, however, Mr S's payments were three months in arrears. He agreed to increase his monthly payments to £624.18 to cover the shortfall, but Close Brothers' account statement indicates that no payment was made in January or April 2024, and that only the original payment of £416.12 was made in May 2024.

Close Brothers says that it sent Mr S a notice of default on 16 May 2024, requiring him to bring the account up-to-date by 6 June 2024. When he didn't do so, Close Brothers ended the agreement on 19 June 2024.

Mr S did not think this was fair. He believed that payments had been made in line with the revised payment plan he had agreed with Close Brothers. He said too that he had not received letters from Close Brothers and that he had changed his phone – so he had not received SMS messages either.

Close Brothers did not agree that Mr S had been treated unfairly. He referred the matter to this service, where one of our investigators considered what had happened. He issued a preliminary assessment but did not recommend that Mr S's complaint be upheld. Mr S did not accept that assessment and asked that an ombudsman review the case.

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.

The conditional sale agreement was in the form required by the Consumer Credit Act 1974 and secondary legislation made under that Act. It set out what payments Mr S needed to make and when he needed to make them. Clause 2.2 said that Mr S needed to make payments on the specified dates, and clause 7.1.1 said that failure to do so would constitute an Event of Default. The agreement also said that, upon an Event of Default, Close Brothers would be entitled to end the agreement, after following the necessary statutory requirements.

Mr S did not make all the necessary payments on time. By the time Close Brothers decided to end the agreement, Mr S was some five months behind the payment schedule.

I am satisfied that Close Brothers did follow the necessary statutory requirements before ending the conditional sale agreement. Its records show that it sent a notice of default in May 2024, followed by a termination notice in June. Both were in the necessary form.

Mr S says that he did not receive any written notices and that the SMS messages which Close Brothers sent did not reach him, because he was no longer using the same phone number.

The notices sent by post were, however, sent to Mr S's home address. It was the only address which Close Brothers had, and they were not returned by the Royal Mail. It may be that Mr S overlooked them, but on balance I think it more likely than not that they were delivered to him. Clause 10.7 of the conditional sale agreement said that any notices sent to Mr S's last known address would be assumed to have been received 48 hours after posting.

I note what Mr S says about his phone number. However, clause 10.8 said that Mr S should notify Close Brothers immediately if any of his contact details changed. If he did change his phone number without telling Close Brothers, it would not be fair to allow him to rely on that failure to avoid the consequences of non-payment.

I do not believe therefore that Close Brothers treated Mr S unfairly.

My final decision

For these reasons, my final decision is that I do not uphold Mr S's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 16 December 2024.

Mike Ingram
Ombudsman