

The complaint

Mr S complains that MI Vehicle Finance Limited (“MIVF”) treated him unfairly when it recovered his vehicle after it had been impounded by the Police.

What happened

Mr S was supplied with a used van by MIVF under a hire purchase agreement in January 2021. Mr S borrowed £13,938 that he agreed to repay over four years.

In June 2024 MIVF was informed that the van supplied to Mr S had been seized by the Police. I understand that Mr S had allowed a friend to use the van who didn’t hold valid insurance for its use. In order to protect its asset, and in accordance with its normal procedures, MIVF arranged for the release of the van and took it into its possession.

MIVF told Mr S that it was defaulting his hire purchase agreement since he had breached its terms – specifically he had failed to keep the van in his possession at all times, and he had allowed it to be used without being comprehensively insured. It told Mr S that he would need to settle the agreement in full if he wished the van to be returned to him.

Mr S paid the outstanding balance on 5 July 2024. But MIVF accepts it failed to communicate with Mr S effectively about arranging the return of the van. It wasn’t returned to Mr S until 17 July. Mr S complained to MIVF both about it repossessing the van, and the delays in it being returned to him.

As I have said, MIVF accepted that it hadn’t dealt with the return of the van as quickly as it should have. It apologised for those delays. But it thought that it had acted reasonably in collecting the van from the Police compound and defaulting the agreement. Unhappy with that response Mr S brought his complaint to us.

Mr S’ complaint has been assessed by one of our investigators. He thought that it had been reasonable for MIVF to secure the van by releasing it from the Police compound. But he thought the delays in returning the van to Mr S, after the hire purchase agreement had been settled, would have caused him some inconvenience. So the investigator asked MIVF to pay Mr S £150 compensation.

MIVF accepted the investigator’s assessment and says it has paid the compensation to Mr S. But Mr S didn’t agree with what the investigator had said. He thought that MIVF’s actions had effectively been a repossession of the van, but without the necessary Court order. So, as the complaint hasn’t been resolved informally, it has been passed to me, an ombudsman, to decide. This is the last stage of our process.

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.

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 S and by MIVF. 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.

At the outset I think it is useful to reflect 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.

Mr S was supplied with a van under a hire purchase agreement. This is a regulated consumer credit agreement which means we're able to look into complaints about it. The agreement that Mr S signed set out in some detail the responsibilities he had under the agreement. And, as I will now go on to explain, Mr S failed to meet some of those responsibilities.

Mr S says that he lent the van to a friend who he thought held insurance for it to be driven. It transpired that wasn't the case, and the van was impounded by the Police. At that time it would generally be accepted that Mr S was no longer in possession of the van, and that it wasn't under his control. That is a breach of section 3.1 of the hire purchase agreement. And Mr S was required to ensure the van was comprehensively insured at all times. Whilst it does seem that Mr S held the relevant insurance for his use of the van, that wasn't the case for the friend who borrowed it. So Mr S was also in breach of section 4.1 of the agreement.

MIVF exercised its rights under the agreement to place it in default when those breaches occurred and it reasonably decided that the breaches were not capable of being remedied. That was a commercial decision for MIVF to take and I cannot conclude that it acted unfairly.

Once MIVF became aware that the van was no longer in Mr S' possession it was entirely reasonable for the firm to seek to secure its asset and take it back into safe custody. It did that by arranging for the release of the van from the Police compound. I appreciate that Mr S says that action was unnecessary, and that he would have collected the van himself. And I have no reason to doubt that would have been the case. But in MIVF's experience that isn't always the case. And leaving an asset in the compound places it at risk of disposal. So I don't think MIVF acted unfairly here.

I have thought about what Mr S has said – that MIVF's actions were effectively a repossession without the required Court order. But I'm sorry to tell him I don't agree. Under the terms of the hire purchase agreement MIVF is required to seek a Court order when more than one third of the amount owed has been repaid, and it wishes to take possession of a vehicle from a consumer against their wishes. I think it is clear that, since the agreement had been breached when Mr S no longer had possession of the van, that MIVF's actions did not involve it taking possession of it from him. So no Court order was required in this case.

Once Mr S had been told that MIVF was defaulting the agreement he acted promptly, and in line with MIVF's directions, to repay what he owed. At that point he took ownership of the van and it should have been returned to him promptly. As I have said, MIVF accepts that it didn't communicate the collection instructions to Mr S as well as it should have. So a delay of almost two weeks occurred before Mr S regained the use of the van that he now owned.

Mr S has told us that he needed the van for his business, although he had been able to borrow alternative transport. But I don't think that means the delay in returning the van to him didn't cause any inconvenience. So, like our investigator, I think that MIVF should pay Mr S some compensation for the inconvenience he was caused. I think the amount of £150 that our investigator recommended, and that MIVF has now paid, is fair and reasonable.

I appreciate that this decision will be disappointing for Mr S. But I don't think MIVF acted unreasonably in collecting the van from the compound. And I think it acted fairly when it decided to default Mr S' hire purchase agreement. I do think Mr S was caused some inconvenience by the delayed return of the van after the agreement had been settled. But I think the compensation MIVF has now paid to Mr S is fair. So I don't think MIVF needs to do anything further.

My final decision

My final decision is that I uphold a part of Mr S' complaint against MI Vehicle Finance Limited. But I think the compensation Mr S has now been paid is fair and reasonable so nothing further needs to be done in order to put things right.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 7 February 2025.

Paul Reilly
Ombudsman