

The complaint

Mr M complains about a balance owed under a hire purchase agreement with Advantage Finance Ltd.

Throughout his complaint, Mr M has been represented by a third party. But for ease, I'll just refer to Mr M.

What happened

In August 2023, a hire purchase agreement was taken out in Mr M's name with Advantage, to get a used car. The agreement was due to last for five years, with monthly payments of around £300 to be taken from Mr M's bank account.

Mr M says that although was aware he was buying a car and that he began to use it, he didn't realise he had entered into a type of finance agreement. Instead, he says a family member took out the hire purchase agreement in his name, without him knowing. Mr M also says the same family member had assumed control over his financial circumstances and restricted his access to his bank account.

In early 2024, Mr M says he started to try to get control back over his personal and financial circumstances. He says he told Advantage that he wanted to end the hire purchase agreement and wanted any repayments he had made refunded. Mr M also complained to Advantage and said he hadn't given his authority for them to process the application for the finance agreement.

In their response to Mr M's complaint, Advantage said they hadn't found any evidence to say the agreement was taken out fraudulently. They told Mr M that he remained responsible for the repayments due under the agreement. Mr M didn't agree and brought his complaint to our service.

While one of our investigators looked into Mr M case, Advantage told us that they were prepared to settle Mr M's complaint, in light of his personal circumstances. They said they would collect the car from Mr M, allow him to exit the agreement and remove any adverse information about it from Mr M's credit file. Advantage also agreed to hold Mr M responsible for around half of each repayment due, since the agreement began.

The investigator considered Advantage's offer and what Mr M had said about the start of the finance agreement. She was persuaded that Mr M had given his authority for the application of the hire purchase agreement. So, she concluded that Advantage's offer was fair.

Mr M didn't accept the investigator's findings and said Advantage caused a delay with collecting the car. He said it would be fair for him to be responsible for six repayments, rather than ten and Advantage should calculate a refund on that basis.

The investigator didn't change her conclusions and Mr M's case has now 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.

Firstly, I'm very aware I've summarised this complaint very briefly, in less detail than has been provided, and largely in my own words. No discourtesy is intended by this. Instead, I've focussed on what I think is at the heart of the matter here. Namely, did Advantage treat Mr M fairly when the hire purchase agreement was put into place?

If there's something I've not mentioned, then I haven't ignored it. I've not commented on every individual detail. I've focussed on those that are central to me reaching what I think is the right outcome. This reflects the informal nature of our service as a free alternative to the courts.

The application for the hire purchase agreement

This case is about an application for a hire purchase agreement, which is a regulated financial product. As such, we are able to consider complaints about it.

There are a few possibilities that might give Advantage a proper basis for holding Mr M responsible for the balance due under the hire purchase agreement. They are:

- Mr M took out the agreement himself.
- A third party took out the agreement on Mr M's behalf, with his actual or apparent authority.

On the one hand, Mr M says he is the victim of financial abuse by a family member, who had control of his finances. Mr M says the family member took substantial funds from his bank account and also applied for borrowing in his name with several lenders. To demonstrate what had happened, Mr M provided us with text messages from the family member and says these prove how much control they had over his life.

Mr M has also told us about his vulnerabilities, which he says make him compliant and easily led.

During our investigation, Mr M explained to us that he was aware his family member was helping him to buy a car. But, he thought the money regularly transferred out of his account by the family member in the years beforehand, was a way of saving for the outright purchase of the car.

On the other hand, Advantage say Mr M provided his identification and proof of address during the application for the hire purchase agreement. Their records show where they took the personal details which match that of Mr M, about his contact and employment information. They also say Mr M collected the car from the dealer himself and started to make the repayments from his own bank account.

Advantage have also sent us a copy of the welcome letter, text messages and arrears notices sent to Mr M. Furthermore, Advantage have shown us where email correspondence was sent to the email address, held on their records.

When the evidence is incomplete, inconclusive, or contradictory, as it is in this case, I make my decision on the balance of probabilities. That is, what I think is most likely to have happened given the available evidence and the wider circumstances.

Having looked at everything, I'm persuaded Mr M wanted to buy a car and had asked the family member to help. I say this because Mr M has told us he had passed his driving test in the lead up to August 2023. And I can see from his text message records where he engaged with the family member about the type of car he wanted. Mr M has also shown us where he took out an insurance policy, to enable him to drive the car financed by the agreement.

But Mr M says that although he wanted a car, it doesn't mean he asked the family member to take out borrowing in his name. So, I've looked at Advantage's records about the application.

Those records contain details which match with Mr M's personal information and his bank account. Additionally, I can see where a welcome letter was sent to Mr M's home address, along with text messages to his contact telephone number. I've also considered where payments were taken from Mr M's bank account and where it took seven months for Mr M to raise his concerns with Advantage.

Given Advantage's contact with Mr M, I'm persuaded he had an awareness of the hire purchase agreement, before it was started and in the months that followed. However, Mr M says he didn't receive the emails Advantage say they sent to him. Having looked at the email address Advantage held for Mr M, I accept it is likely to be that of Mr M's family member.

But, I also need to take into consideration that just as Mr M says he relies on a third party to help him now, he is likely to have wanted assistance in the lead up to the purchase of the car. So, when looking at everything as a whole, I don't think the presence of the family member's email address means Mr M didn't agree for the hire purchase agreement to go ahead.

During his complaint, Mr M told us that Advantage should have realised he had vulnerabilities, when he chose the car and subsequently went to collect it. While I empathise with what Mr M has explained, I'm not persuaded that Advantage ought to have been aware of the circumstances he's told us about. Or, that they should have taken a different approach to the application for finance.

I say this because of the correspondence I've seen between Mr M and the family member, and then again with us during our investigation. There's no other supporting evidence to show where Advantage may have spotted that Mr M may have been a vulnerable customer. So, I don't think they were in a position to treat him as such.

Overall, while I acknowledge Mr M's side of the dispute, I'm persuaded that he wanted the car with the help of the family member. On balance, I think Mr M was aware of the hire purchase agreement in his name, which allowed him to acquire the car. And that he made several repayments to it, before raising his concerns.

It then follows that I'm persuaded Mr M gave his actual, or apparent authority for Advantage to open the hire purchase agreement. So, I think Advantage treated Mr M fairly, when they asked him for the repayments due under that agreement.

Advantage's offer to settle this complaint

While we were investigating Mr M's case, Advantage told us that they would be prepared to offer Mr M a way of settling the outstanding balance of the hire purchase agreement. They have since collected the car from Mr M's home address and allowed him to exit the agreement at no extra cost.

Advantage have also removed any adverse information about the agreement from the

information held with credit reference agencies. Mr M has acknowledged that Advantage have completed each of these steps. So the remaining part for me to consider is whether or not, Mr M is due a further refund of the repayments he made to Advantage.

However, I've concluded that Advantage have treated Mr M fairly, by holding him responsible for all the repayments due under the agreement. It then follows that Mr M should pay for the total time he had use of the car.

I'm aware Mr M cancelled an insurance policy and stopped driving the car while his complaint was being looked into. But, I'm also aware that Advantage's offer was made in an attempt to settle the complaint, in light of Mr M's circumstances. I don't think the offer was made because Advantage found that the agreement had been opened by a fraudster.

In other words, I think Mr M would always have been responsible for all the repayments due under the hire purchase agreement, up to the point the car was collected.

Over the ten months Mr M had the car, I can see where the total Mr M would be required to pay Advantage is around £3,000. But, Advantage have reduced that amount to £1,550. Advantage say Mr M has already paid them £1,536.75 and that they have written off the remaining deficit of £13.25.

So, in all the circumstances, I think Advantage's offer is fair in that it means Mr M no longer owes a debt under the hire purchase agreement. So, I don't think Advantage needs to take any further steps to put things right.

My final decision

My final decision is that I do not uphold Mr M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 5 May 2025.

Sam Wedderburn
Ombudsman