

The complaint

Miss M complains about how Universal Leasing Limited trading as Admiral Leasing & Loans (AL&L) handled her hire agreement.

What happened

Miss M told us she was a sole trader and that she acquired goods, for her disabled mother to use, through a 36 month hire agreement signed on 20 March 2024. The agreement sets out that the monthly repayments were for £531.95 (including VAT). Miss M says she was told that as she was a sole trader, she'd need to appoint a guarantor for this agreement, which she did.

Miss M says she paid the supplier a £950 deposit. But as she found this to be too expensive, she decided to enter into a finance agreement with AL&L. After being accepted for the agreement with AL&L, Miss M says the supplier refunded her the deposit amount.

Miss M says she feels she was mis-sold the agreement. More specifically, Miss M has complained about the following:

14 day cooling off period and AL&L not cancelling the agreement

Miss M says she received the goods on 27 March 2024 and that she called AL&L asking to withdraw from the agreement before receiving AL&L's signed copy of it on 2 April 2024 - Miss M says there was nothing wrong with the goods, but after speaking to other people, she says she realised the agreement would likely put her into financial hardship. Miss M says she was told this wasn't possible as there was no cooling off period and that she'd entered into a non-cancellable agreement.

AL&L say the agreement was activated once delivery of the goods was taken and that they didn't have any evidence to suggest Miss M asked to cancel the agreement before it was activated. Additionally, AL&L say the conditional offer sent to Miss M on 19 March 2024, prior to her signing the agreement, confirms that once the hire agreement is activated it's non-cancellable. And that the hire agreement confirms this too. AL&L also acknowledged Section 67 of the Consumer Credit Act 1974 (CCA) sets out cancellation rights available to a hirer. However, this doesn't apply in Miss M's case as there were no antecedent (face to face) negotiations between them and Miss M. AL&L also told Miss M that as they bought the goods outright on her behalf, it's not possible for a 14-day cooling off period as they purchased the goods as per Miss M's request.

Information on the hire agreement and early settlement figure amount

Miss M says the agreement doesn't give her the total cost of the credit, any interest charges or the cost of the goods.

AL&L said as the agreement is a hire agreement, the key financial information is presented on the first page of the document which sets out:

- the term of the agreement,
- frequency of payments and
- rental amounts.

AL&L say the agreement doesn't need to set out the amount of interest paid, the total finance charges/total amount payable nor the equipment cost price because it is a hire agreement, not a hire purchase agreement.

AL&L said they purchase the goods outright on Miss M's behalf from the supplier under a separate agreement which Miss M isn't party to. AL&L also said Miss M's hire agreement sets out the rental amounts due during the term of the agreement, which could have been compared to the advertised cost price of buying the goods instead of entering into a hire agreement with rental payments.

Miss M said the early settlement figure of £17,804.74 was considerably more than the market value of the goods, and that she won't be able to sell the goods for a reasonable price. As a result, Miss M says she's now having to use the goods in her business in order to pay the monthly repayments.

AL&L said the settlement figure is higher than the cost of the equipment due to the finance charge applied for leasing the equipment. AL&L also said Miss M's future rental amounts were discounted by 3% from the date they fell due, and that this had been factored into the settlement figure Miss M was provided with.

AL&L told us Miss M has cancelled her direct debit under this agreement which has left an outstanding payment due in September 2024 of £614.51.

What our Investigator said

One of our Investigator's considered Miss M's concerns. In summary, she said while the hire agreement Miss M took out was regulated, there are parts of the CCA that don't apply to hire agreements. She also said Miss M entered into the agreement as her name trading as her business name. So, because of this, our Investigator said withdrawal and cooling off rights didn't apply in Miss M's circumstances because she is a sole trader entering into a hire agreement. Our Investigator also said both parties acknowledged that the right to withdraw wasn't available in the agreement Miss M signed.

Therefore, our Investigator didn't think AL&L had acted unfairly in not letting Miss M cancel the agreement.

Miss M's response to our Investigator's view

Miss M disagreed. She clarified she didn't enter into the agreement using her business address and that she wanted AL&L to change the address to her home address. Miss M also said the credit check that was done on her was done in her personal name and home address and that she didn't enter any information on the agreement relating to her business.

Miss M also reiterated as she's considered an individual, she's entitled to a 14-day cooling off period and she referenced another Ombudsman's decision which said the customer in that decision was a sole trader and that they could have cancelled the agreement within 14 days of signing it. So, the complaint has been passed to me to decide.

I issued a provisional decision on the matter, setting out the below:

I note Miss M has since raised several other complaint points relating to the goods she

acquired through this hire agreement such as the quality of the goods and the lending being unaffordable. For clarity, this decision won't be dealing with those points. I'll only be looking at whether AL&L have acted fairly up until the point AL&L issued their final response letter on 21 June 2024. This is because I think the points Miss M has raised after this letter are too far removed from the issues that have already been considered by AL&L. So, Miss M should raise any new complaint points with AL&L directly if she wants them to be considered.

I note Miss M had a guarantor involved in this agreement. And that the guarantor has brought his own separate complaint about AL&L. To be clear, I'm unable to comment on anything the guarantor is unhappy about and will only be able to look at if AL&L have acted unfairly to Miss M in this decision.

Miss M's hire agreement is regulated, so I'm satisfied this is a complaint we can consider. I've considered the CCA in this complaint alongside good industry practice and the evidence available to me.

14 day cooling off period and AL&L not cancelling the agreement

Miss M has made several references to telling AL&L that she wanted to cancel the agreement before the agreement was signed by AL&L on 2 April 2024.

Section 61 of the CCA defines a regulated agreement not being properly executed as:

"A regulated agreement is not properly executed unless—

- (a) a document in the prescribed form itself containing all the prescribed terms and conforming to regulations under section 60 (1) is signed in the prescribed manner both by the debtor or hirer and by or on behalf of the creditor or owner..."*

Having considered what Miss M told us alongside the term above, what Miss M was attempting to do was withdraw from the agreement, not cancel it. While I appreciate withdrawing from an agreement effectively has the same outcome as cancelling it, the 14-day cooling off period Miss M has referred to that she should have been given and other sections within the CCA that refer to cancellation rights, aren't relevant here. I say this because it's not possible for Miss M to cancel an agreement that wasn't executed in the first instance.

Section 57 of the CCA refers to withdrawing from prospective agreements. Essentially, if the agreement hasn't been executed, a customer can withdraw from it, in turn meaning the agreement gets treated as if it's been cancelled. So, I think this term is a relevant consideration in the circumstances of Miss M's complaint.

I've thought about whether Miss M did withdraw from the agreement. However, I'm not persuaded there's enough evidence to suggest this was the case. I'm mindful Miss M hasn't given a definitive indication, and the dates we've been given have been conflicting. Miss M says a phone call took place where she told the advisor she wanted to withdraw from the agreement and was told this wasn't possible. But Miss M has given different dates of when she thinks the call took place – she said it was on 30 March 2024 or 1 April 2024 or 2 April 2024. While I don't have evidence of the call, AL&L acknowledge a call took place between Miss M and their advisor on 2 April 2024. But AL&L have been consistent in saying withdrawing from the agreement wasn't discussed during this call. AL&L have a record of this call taking place, so I'd expect them to have a record of previous calls if there were any.

In addition to this, AL&L have provided evidence of further communication between Miss M and AL&L on 2 April 2024 and also on 4 April 2024. In both communications, Miss M didn't

mention no longer wanting the agreement nor the goods. Instead, Miss M confirmed she received the goods and seemed quite happy about receiving it. In the second communication, Miss M asked AL&L about the term of the agreement after receiving a welcome pack from AL&L. Miss M then went on to use the goods within her business and AL&L have provided evidence of Miss M advertising the benefits the goods provide to customers shortly before and after she said she had asked AL&L to cancel the agreement. It seems more likely than not to me if Miss M was so unhappy about not being able to withdraw from the agreement, her communications would have taken a different tone.

Overall, I'm not persuaded there's evidence to show Miss M attempted to withdraw from the prospective agreement. So, I don't think AL&L have treated Miss M unfairly in relation to this part of Miss M's complaint.

Information on the hire agreement and early settlement figure amount

I understand Miss M raised concerns about the hire agreement not setting out the total cost of the credit, the finance charges nor the cost of the termination – I think Miss M is referring to the early settlement figure here. I've considered AL&L's explanation for what the hire agreement sets out and I don't find their explanation to be unreasonable.

Typically, a hire agreement would include information such as the cost of the repayments and the number of repayments required under the term of the agreement – and I can see Miss M's hire agreement includes this information. It wouldn't include interest as this is a hire agreement. So, I don't think AL&L have done anything wrong in the information they've displayed on Miss M's hire agreement. In any case, when Miss M asked AL&L for the early settlement figure, she was provided with this. So even though it wouldn't typically be included in a hire agreement, as an early settlement figure could change depending on when the settlement is requested, I'm satisfied AL&L acted reasonably when telling her the figure when she asked for. In addition to this, AL&L included information on settling the agreement early in Miss M's conditional offer.

Miss M has said the early settlement figure is significantly higher than the market price of the goods and that she won't be able to sell it. Ultimately, Miss M agreed to the repayment amounts as set out in the hire agreement. Additionally, as per Miss M's agreement, the goods aren't her property, and so she wouldn't be entitled to sell them.

Miss M has also raised some concerns about the address on the agreement being her business address. AL&L apologised to Miss M about the address on the agreement not being changed to her home address and I think an apology is fair. AL&L have said that the address on the agreement doesn't impact the legality of the agreement itself and I don't find this to be unreasonable. Additionally, Miss M has confirmed she is using the goods in her business, so I don't think it's unreasonable for the agreement to have her business address.

Miss M said she's a sole trader, so it's not unreasonable AL&L carried out the credit checks on her. In any case, Miss M was required to sign the agreement which said that as the hirer, she confirms all the information on the agreement was true and correct. So, if there was an issue with the information on the agreement, I think Miss M could have raised this with AL&L before signing it.

AL&L said Miss M cancelled her direct debit and they told us in July 2024, Miss M hadn't set the direct debit back up for payments to be made. I appreciate Miss M has said she doesn't think she should be liable for the agreement. But as I've explained, I don't think AL&L have acted unfairly. Not making payments towards the agreement could result in arrears building up which could have an adverse effect on Miss M's credit file. I note Miss M says she can't afford to make the repayments, so I'd expect AL&L to engage with Miss M on this and to

treat her with forbearance and due consideration.

Responses to my provisional decision

Miss M responded and said she did attempt to withdraw from the agreement when she sent the AL&L advisor a text message, to her mobile number, on 24 March 2024 saying she wanted to cancel the agreement. Miss M also provided evidence of this text message and said she'd provided it before. We sent a copy of this message to AL&L for their comments.

AL&L said they had no record of receiving the text message Miss M provided evidence of. AL&L provided a screenshot from their advisors phone around the 24 March 2024 to show the text message Miss M says she sent wasn't there. AL&L also provided us with copies of communications between Miss M and the supplier of the goods from 12 March 2024 to 15 November 2024. In a lot of the communications, Miss M talks about the use of the goods being for the service she provides in her business. Around the 24 March 2024, Miss M confirmed the agreement had been signed and that everything was fine. Miss M also asked the supplier on 23 March 2024 if the delivery was going ahead.

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 looked through Miss M's file again, I couldn't see she'd previously provided a copy of the text message. In any case, I'm not persuaded by this evidence. I say this because before my provisional decision, Miss M previously said she called AL&L, spoke to their advisor by calling her mobile number and requested to withdraw from the agreement. Miss M had also previously insisted that AL&L ought to have call recordings of this call. AL&L have provided a copy of an email where Miss M said to them on 17 October 2024:

"Yes this is correct that [name of the advisor Miss M says she sent a text message to] always called me on her mobile. On her mobile is when I requested to cancel the agreement before it was signed by [AL&L] as per your terms of the conditional offer....."

In addition to this, the text message was on a different date to the dates Miss M has previously said she attempted to withdraw from the agreement which she said was either on 30 March 2024 or 1 April 2024 or 2 April 2024. So, I don't find Miss M's testimony to be consistent.

In any case, I'm not satisfied AL&L received the text message Miss M has provided a copy of, so I don't think they acted unfairly when not ending the agreement. I say this because I haven't seen this evidence before, I can't see Miss M provided this evidence before my provisional decision and AL&L don't have a record of this text message being received.

Miss M previously told us AL&L's advisor always called her from a withheld number. But Miss M said there was an instance where the advisor accidentally called her not withholding her number – so Miss M was able to find out the advisor's mobile number. Miss M provided a copy of a message she then sent the advisor on 5 June 2024 where she asked the advisor to send an email and to not call her. This message shows as 'read', but not responded to and this is the only message in the chain. Miss M didn't mention to us at this point that she'd previously sent a text message to the advisor on 24 March 2024, nor provide a copy of this message as she has done now which I would've expected her to do.

Even if I accept Miss M sent the text message on 24 March 2024 and AL&L received it, the evidence AL&L have provided doesn't show Miss M's intent to withdraw from the agreement

after this date. Instead, it shows Miss M engaging in the agreement and the delivery of the goods. Miss M also asked the supplier about the use of the goods in her business for other customers and what they'd recommend she could do to get good results for her customers. At best, Miss M did ask to withdraw from the agreement on 24 March 2024, but Miss M's actions after this date and the other evidence I've mentioned above, suggests to me that she changed her mind. However, as I've said, I'm not persuaded AL&L received the text message of 24 March 2024 in any case.

So, for these reasons, I'm not persuaded to change my decision and I don't find AL&L have treated Miss M unfairly.

My final decision

For reasons explained above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 10 January 2025.

Leanne McEvoy
Ombudsman