

The complaint

Miss G complains that CA Auto Finance UK LTD mishandled a credit account she held with it after arrears had accrued due to a change in her financial situation. She says this caused her unnecessary distress.

Miss G has been assisted in bringing this complaint by a family member.

What happened

In September 2022 Miss G entered into a four-year hire purchase agreement for a used car with CA Auto. The monthly payments were set at £198.31 and were paid by direct debit.

In or around November 2023 Miss G's financial circumstances changed and she struggled to make payments under the agreement. She was assisted by a family member but in June 2024 the arrears on her account stood at over £800 with an additional £72 having been added as missed/late payment fees. CA Auto issued Miss G with a default notice at the end of May 2024. This notice said that the full amount of the arrears would need to be cleared within a set period of time or the agreement may be terminated.

Due to Miss G's financial circumstances she, together with a family member, contacted a debt advice organisation for guidance. Miss G also says that her financial circumstances were going to change for the better from September 2024 and from that point she would be able to resume making payments under the agreement.

Having received the default notice and spoken to the debt advice organisation, Miss G contacted CA Auto and gave authorisation for her family member to speak with the business on her behalf about the situation.

The family member explained Miss G's current financial circumstances and about the expected change to her finances to a CA Auto agent. They also explained that there had been assistance from the debt advice organisation. The option of applying for a Breathing Space to be applied to Miss G's account was discussed and the agent said that this had to be applied for by a debt adviser. They told the family member that they needed to go back to the debt advice organisation Miss G had been dealing with. The agent also explained that the default letter meant there were 17 days left before a full demand letter would be issued which would give a further seven days to get something in place or resolved before the account was terminated.

The following day the family member called CA Auto back. They asked for payment break to be put on Miss G's account. It was explained by the agent that this wasn't something that could be offered. The agent said even with the Breathing Space scheme that payments had to be made on the account. The agent said that as the default notice had now been issued the arrears had to be cleared or the agreement would be terminated. CA Auto's agent provided the three options open to Miss G given the level of the arrears. These were to sell the car and clear the balance, voluntary terminate the agreement or pay the arrears. The family member said that Miss G wanted to keep the car and to avoid the agreement being terminated.

The family member agreed to clear the arrears on Miss G's behalf and attempted to do so by using a credit card. This offer was declined as CA Auto said it was unable to accept payments of arrears by credit card held by a third-party, but they would accept a bank transfer. The family member was also informed that if the arrears were paid in full then the £72 incurred for late/missed payments would be waived,

However, when the family member called back to pay the arrears with a debit card, they were then told that only one set of late/missed payment charges could be waived amounting to £18. The family member challenged this and, after a short time and a discussion with a colleague, the agent agreed to remove the £72 in full. The arrears were then paid.

Miss G and the family member were unhappy at CA Auto's handling of their enquiries. Miss G complained to CA Auto that there had been a number of service failures by the agents her family member had spoken to over a two-day period. These were:

- On the first call the advice had been that the debt advice organisation would need to make contact for their involvement to be considered, But the following day the advice was that regardless of the debt advice organisation's involvement nothing could be done to assist Miss G and she needed to continue to make payments to avoid the agreement being terminated.
- That although there was a policy in place not to accept payments from credit cards the agent had suggested paying money from the credit card into the bank account and paying via bank transfer. This suggested work around weakened this policy if the purpose was to avoid additional credit charges.
- That there had been different statements from two agents about the waiving of the £72 late/missing payment charges.

CA Auto didn't uphold Miss G's complaint. It said as part of its investigation into Miss G's complaint it had considered the notes held about her account which included notes about the various phone calls that had been made during the two-day period in June 2024. However, CA Auto said it hadn't been able to locate copies of the actual calls.

CA Auto said the advice given by the agent during the first call about needing to apply for a Breathing Space via a debt adviser had been correct as had the statements about needing to make arrangements for the arrears within the remaining 17 days of the Default Notice and/or seven days from the final demand notice to avoid termination of the agreement.

CA Auto said that the call the following day had asked for a payment break which wasn't something it offered. It also said that when Miss G's relative later rang to make a payment with their credit card this was declined correctly as the process doesn't allow third-party credit card payments to be accepted.

AC Auto said that the late payment fees had all been removed from Miss G's account.

Miss G was unhappy at AC Auto's response and complained, with assistance from her relative, to this service. As part of her complaint Miss G was able to provide copies of the calls that had taken place over the two-day period as AC Auto had sent these to her as part of her data disclosure request.

Our investigator didn't recommend that Miss G's complaint was upheld as she said she didn't think AC Auto had acted unfairly.

Our investigator said it had been unclear why AC Auto hadn't been able to locate the various

calls between itself, Miss G and her authorised relative but as these had been provided, she had been able to listen to them. However, she said, this service can only consider the impact of any errors by a business on a consumer, and this service can't take into account any impact of wrong information being given to Miss G's relative when they had spoken to AC Auto's agents.

Our investigator said the agent had given the correct advice about the Breathing Space scheme and that this needed to be sought via a debt adviser. It hadn't been unfair she said to refer Miss G back to the debt advice organisation.

Our investigator said, given the circumstances of Miss G and the number of missed payments, she didn't think AC Auto had acted unfairly in not agreeing any payment plans or payment breaks for the account. It had, she said, outlined the options Miss G had in respect of the agreement as she would have expected.

And while our investigator agreed there had been some confusion over whether the £72 late/missed payment fees would be waived when the arrears had been cleared, our investigator said this had been quickly sorted out and those fees removed. Our investigator said that action was sufficient to resolve any miscommunication that had occurred.

In regard to not being able to use a third-party's credit card to clear the outstanding arrears, our investigator said that was a commercial decision for AC Auto and so not something this service would interfere with. She said although Miss G's relative had been told a payment might have been taken from Miss G's credit card this was a matter for AC Auto, but she didn't think declining the relative's credit card payment had been unfair.

Miss G disagreed with our investigator's view. She said she was unhappy AC Auto had said it had been unable to locate the calls when investigating her complaint. She raised an issue as to whether her data had been lost by the business. Miss G said that she had been given false hope by the first agent that help would be forthcoming from AC Auto about her account.

Miss G said she remained concerned that the agent had suggested a work around to using a credit card to pay off the arrears by transferring funds from the card to a bank account instead. She also said she remained concerned at the inaccurate and misleading statements made about the late fees. Miss G said it wasn't acceptable that the agent had given her inaccurate information about whether those fees were payable.

As the parties were unable to reach an agreement the complaint has been passed to me.

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've seen that it's agreed Miss G's account with AC Auto had fallen into arrears of around four months and that her financial circumstances were not going to improve for a further three months after the default notice had been issued. I've also seen that Miss G was keen to keep the car and not have the agreement terminated.

I can confirm that before making my decision about this complaint, I've listened to all the calls that have been provided by Miss G as well as reading the documentary evidence.

I've seen that Miss G had taken the sensible step of discussing her financial situation with a debt advice organisation. I don't know exactly what this organisation said to her, but it appears that the Breathing Space scheme was discussed.

Miss G says that when her relative spoke with the first agent they unfairly raised her hopes that things could be resolved but, while I appreciate this will be of disappointment to Miss G, I disagree with her view. Listening to that first call, I heard Miss G's relative explained her situation to the agent they then said that they have been speaking with the debt advice organisation and had been told to ask for a Breathing Space. The agent correctly said that the debt adviser needed to make contact for this and then the business would look at what can be done. I don't think the agent made any promises or guarantees about the account being put on hold. I think the agent had been clear that the default notice had been served and the account was at risk of being terminated if something was not put in place or the situation resolved. I also think it's fair to consider that the agent probably assumed Miss G's relative understood that with a Breathing Space, payments to the account would still be expected as this isn't the same thing as a break in payments.

During this first call the agent also explained a note would go on to Miss G's account that she was going to go back to the debt advice organisation and that they would then be in touch. And while the agent asked some questions about Miss G's financial circumstances such as whether she was behind on priority bills, I don't think they acted unfairly by not discussing potential payment plans. This was because it was clear Miss G's circumstances weren't going to improve for a further three months and also because it had been agreed the next step would be for Miss G to speak to the debt advice organisation about applying for a Breathing Space.

The following day Miss G's relative called AC Auto. It appears that the request for a Breathing Space was not going to be pursued and instead Miss G had been advised to ask for a hold on her account. This request however was refused by the agent as it wasn't an option offered by AC Auto. And I can't reasonably say that was unfair, three months of further arrears could place Miss G in a more difficult financial situation and AC Auto is obligated to avoid that.

It is also considered fair practice and in line with guidance issued by the Information Commissioners Office that where credit accounts are between three and six months in arrears that default action is taken by lenders. So, the serving of the default notice on Miss G had been reasonable and fair. Allowing her to be around eight months in arrears before payments would recommence would be likely to result her becoming further in debt.

As the default notice had been issued, Miss G had three options open to her to resolve the issue and I've seen these were correctly set out for her. She could either sell the car and clear the balance with the proceeds, voluntarily terminate the agreement or clear the arrears before the agreement was terminated. I've seen Miss G chose to pay off the arrears and her relative offered to do this on her behalf.

In regard to the clearing of the arrears with a credit card, it isn't unusual that credit card payments are declined when paying credit debt because they can lead to additional debt for the consumer concerned. Here, it was a third-party's credit card which was declined as per AC Auto's procedure. It says for credit card payments the details of the card owner needs to match the account. This is a business decision, and I can't interfere with that. This may have meant Miss G herself could have used a credit card, but I haven't seen that she was in a position to do so. I also think, given her financial circumstances, that even if she had a credit card, making such a payment would have been financially detrimental to her. So, I don't think Miss G was prejudiced by not being informed she could possibly use a credit card to pay these arrears.

Miss G says she was concerned that a work around was suggested to her relative about transferring funds from their credit card into their bank account. I think the agent was trying to be helpful as they couldn't accept the relative's offered credit card but could accept a bank

transfer. The relative on the phone wasn't their customer so I can't consider the likely impact on them of this advice but the relative also correctly pointed out that moving funds in this way would incur likely charges and didn't take this action. Since their credit card wasn't used to make a payment and declining this method was in accordance with AC Auto's procedure then I can't say that AC Auto acted unfairly here towards Miss G. So, I don't think any compensation for the relative being given that advice is warranted.

Miss G is concerned about the late fees, and I agree there was miscommunication here. Miss G's relative was informed that if the arrears were cleared the £72 incurred in fees would be removed. However, when the relative called to make the payment, they were told only one set of the £18 charges that had been added could be removed. The relative correctly challenged that and the agent went to speak to someone. Within a relatively short time the agent returned and agreed to remove all the charges. While I appreciate it is frustrating to be told contradictory things I can't reasonably say that here this resulted in unfair consequences. The matter was quickly rectified and resolved, so I don't think that this error warrants compensation for Miss G. The removal of the charges was a fair outcome.

In respect of the lost calls, I don't know why AC Auto wasn't able to locate them when looking at Miss G's complaint since it has been able to provide them to her. Miss G has raised concerns about her data being lost but I haven't seen enough evidence to say AC Auto misplaced or actually lost her personal data.

AC Auto says that when it investigated Miss G's complaint there were no calls logged to her number so instead when responding to the issues she had raised it used the call log notes on its records. I think the issue for me is whether AC Auto handled Miss G's complaint fairly when it didn't listen to the calls as part of its decision-making.

I think, having listened to the calls, that AC Auto would have reached the same conclusion that it did on Miss G's complaint. So, I don't think its failure to locate them would have resulted in a different outcome to her complaint. I'm satisfied that although CA Auto didn't have the benefit of actually hearing the content of the calls, the account notes were accurate and it hasn't acted unfairly in preparing its response to her complaint.

For the reasons set out above, I'm not upholding Miss G's complaint.

My final decision

As set out above, I'm not upholding Miss G's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss G to accept or reject my decision before 17 March 2025.

Jocelyn Griffith
Ombudsman