

The complaint

Mrs W complains that she's been paying for a car that she hasn't received under a finance agreement with CA Auto Finance UK Limited.

What happened

I've issued two provisional decisions on this complaint and in my first provisional decision I described Mrs W's relationship with the dealer. I also described what had happened as follows:

"Mrs W electronically signed a finance agreement with CA Auto Finance in September 2023 under which a new car was to be supplied to her. The price of the car was £69,000, the finance agreement shows that Mrs W made an advance payment of £9,000 and she agreed to make 48 monthly payments of £996.99 and a final payment of £36,562 to CA Auto Finance. She made six of those monthly payments but she says that she didn't receive the car.

I understand that the supplying dealer ... stopped trading in February 2024, and [Mrs W] then complained to CA Auto Finance. It didn't uphold her complaint and said that its investigations had highlighted that she had links with the supplying dealer and it had reason to believe that the information provided in her complaint wasn't factual. Mrs W wasn't satisfied with its response so complained to this service.

Her complaint was looked at by one of this service's investigators who, having considered everything, didn't recommend that it should be upheld. He said that he could see that the car's registration form was re-issued in February 2024 which indicated to him that it was sold on that date as the registered owner was changed. He said that it was evident that the dealer was at fault but he couldn't say that CA Auto Finance had any knowledge of what had happened and, as far as it was concerned, it provided finance for the car and had no involvement with the delivery of it.

Mrs W didn't accept the investigator's recommendation and has asked for her complaint to be considered by an ombudsman. CA Auto Finance wrote to Mrs W in January 2025 and said that her finance agreement had been settled in full and it confirmed that it no longer held a financial interest in car. The investigator asked CA Auto Finance for more information but it said that Mrs W had contacted it about a refund and it had advised her that it was now awaiting the ombudsman's review and decision".

First provisional decision

I set out my provisional findings in my first provisional decision. I said:

"Mrs W entered into the finance agreement and made six monthly payments of £996.99 to CA Auto Finance. The finance agreement also shows that she made an advance payment of £9,000 for the car. Even though she says that she didn't receive the car, she made those payments and didn't tell CA Auto Finance that she hadn't received the car until after the supplying dealer ... had stopped trading.

CA Auto Finance told Mrs W in January 2025 that her finance agreement had been settled in full and that it no longer held a financial interest in car. Mrs W provided that information to this service and asked CA Auto Finance for a refund of her payments. The investigator asked CA Auto Finance for more information but it hasn't explained what has happened.

In complaints such as this one, where the evidence is incomplete, inconclusive or contradictory, I have to make my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

The finance agreement has now been settled in full but I've seen no evidence to show that Mrs W made a payment to settle the agreement. I consider it to be more likely than not that Mrs W didn't receive the car. I find that it would be fair and reasonable in these circumstances for CA Auto Finance to refund to Mrs W the monthly payments that she made under the agreement, with interest, and to remove any information about the finance agreement that it's recorded on her credit file.

The finance agreement shows that Mrs W made an advance payment of £9,000 for the car. If Mrs W is able to provide evidence to show that she made that payment, I consider that it would be fair and reasonable for CA Auto Finance to reimburse her for it, with interest. When responding to my provisional decision, I ask Mrs W to provide that evidence (and if she's unable to do so, I won't be requiring CA Auto Finance to reimburse her for that payment).

Mrs W has described the impact that this situation has had on her. But if Mrs W had told CA Auto Finance that she hadn't received the car when she was due to receive it (which was more than four months before the dealer stopped trading), I consider that many of the issues that she's been caused would have been avoided. In these circumstances, I'm not persuaded that it would be fair or reasonable for me to require CA Auto Finance to pay any other compensation to Mrs W".

Mrs W accepted my provisional decision but CA Auto Finance provided a detailed response to it in which it explained why it considered that Mrs W's complaint shouldn't be upheld. I was persuaded by what it said so I issued a second provisional decision earlier this month.

Second provisional decision

I said my second provisional decision:

"One of the main reasons that I initially said that Mrs W's complaint should be upheld was that the finance agreement had been settled without Mrs W making a payment to settle it and the investigator had asked CA Auto Finance for more information but it said that it was awaiting the ombudsman's review and decision. It has now explained the basis on which the agreement was settled and has provided further information about the reasons that it considers that Mrs W's complaint shouldn't be upheld. I've therefore looked again at all of the evidence.

... Mrs W electronically signed the finance agreement in September 2023 and CA Auto Finance will then have paid the amount of credit shown on the finance agreement of £60,000 to the dealer to buy the car so that it could be supplied to Mrs W. I also understand that the dealer stopped trading in February 2024 and Mrs W then complained to CA Auto Finance in June 2024 that she hadn't received the car.

I've seen no evidence to show that Mrs W complained to the dealer, or to CA Auto Finance, that she hadn't received the car before then and she made six monthly

payments of £996.99 to CA Auto Finance ... if [Mrs W] hadn't received the car as expected in September 2023, I would expect her to have complained to the dealer and then to CA Auto Finance. I'm not persuaded that it's likely that Mrs W would have continued to make the monthly payments of £996.99 for a car that she hadn't received.

Mrs W has a responsibility to mitigate any loss that she's suffered and part of that responsibility would be to tell CA Auto Finance about any issues with the supply of the car as soon as practicable after they occurred. By continuing to make monthly payments for six months and not telling CA Auto Finance that she hadn't received the car until June 2024, nine months after it should have been supplied to her and four months after the dealer had stopped trading, I don't consider that she has mitigated her loss.

Having carefully considered all of the evidence that both CA Auto Finance and Mrs W have provided, I'm not persuaded that there's enough evidence to show that CA Auto Finance has acted incorrectly in its dealings with Mrs W about the finance agreement. I find that it wouldn't be fair or reasonable in these circumstances for me to require CA Auto Finance to refund to Mrs W any of the payments that she's made for the car or to take any other action in response to her complaint".

Subject to any further comments or evidence that I received from Mrs W and CA Auto Finance, my provisional decision was that I didn't intend to uphold this complaint. Mrs W has responded to my second provisional decision in detail and says, in summary and amongst other things, that:

- she's already provided proof from the original supplier of the car that the car never left its possession, because the dealer hadn't paid it for the car so she never took delivery of the car;
- she regularly asked the dealer when her new car would be arriving and was told that the car had been delayed but would be arriving soon and, as she was using another car in the interim, she accepted that explanation; and
- she first contacted CA Auto Finance about this issue in February 2024, around the time that the dealer went into administration, and she'd like to understand what information it has provided to cause a change in the outcome as she has no trust in it to provide factually correct information.

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.

Mrs W electronically signed the finance agreement, which she clearly entered into with CA Auto Finance, in September 2023 and, given her relationship with the dealer, I consider it to be reasonable to conclude that she would have understood that it was CA Auto Finance that was supplying the car to her. She's provided evidence that she says shows that she made an advance payment of £9,000 for the car and she then made six monthly payments of £996.99 to CA Auto Finance but she didn't receive the car.

I'm not persuaded that it's likely that Mrs W would have continued making monthly payments of £996.99 for a car that she hadn't received unless there was a reason for her to do that. I consider that it's reasonable to expect that she would have contacted CA Auto Finance and explained to it that she'd been told by the dealer that the car had been delayed but would be arriving soon and to have asked for her monthly payments to be put on hold until she received the car. I'm not persuaded that it's likely that she would have made an advance

payment of £9,000 and six monthly payments of £996.99, so a total of £14,981.94, for the car without speaking to CA Auto Finance about the situation until February 2024.

CA Auto Finance says that the funding company identified on the finance agreement settled Mrs W's account via indemnification. I said in my second provisional decision that I considered that Mrs W had a responsibility to mitigate any loss that she'd suffered and why I didn't consider that she'd mitigated her loss.

Having carefully considered the information that Mrs W has provided in response to my second provisional decision, as well as all of the other evidence that both CA Auto Finance and Mrs W have provided, I'm not persuaded that I should change the findings that I set out in my second provisional decision. I'm not persuaded that there's enough evidence to show that CA Auto Finance has acted incorrectly in its dealings with Mrs W about the finance agreement. I find that it wouldn't be fair or reasonable in these circumstances for me to require CA Auto Finance to refund to Mrs W any of the payments that she's made for the car or to take any other action in response to her complaint.

My final decision

My decision is that I don't uphold Mrs W's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 27 May 2025.

Jarrold Hastings
Ombudsman