DRN-5559021

The complaint

Mr S is unhappy with how Glenside Finance Limited treated his situation when he got into financial difficulty in relation to a hire purchase agreement.

What happened

Mr S has been represented on this case both in communications with Glenside and our service. But, to keep things simple, I will only refer to Mr S in my decision.

In May 2022 Mr S took a hire purchase agreement with Glenside to acquire a used car. The car cost £7,995, Mr S paid a deposit of £2,000 and he was due to make repayments of £224.82 a month for 48 months.

Unfortunately, Mr S got into some financial difficulty. This situation went on for some time and both parties know the full history of what happened. So, I won't set out everything that occurred. But, in summary:

Mr S got into arrears on the account starting from July 2022. A 'termination letter' was sent to Mr S in January 2023 due to arrears and lack of contact from Mr S. Arrears were cleared, but then built up again. A further 'termination letter' was sent in May 2023.

At the end of June 2023, Glenside says it explained it was willing to discuss a repayment plan, but it needed to assess Mr S's financial situation and sent him a link to 'open banking'. Glenside said when this wasn't completed and no payment was received, it appointed repossession agents. £300 was applied to Mr S's account as a fee.

Glenside says Mr S asked for a repayment plan without completing the open banking link. Glenside said it needed to assess the situation, but agreed to 'hold the account'. The arrears were then partially repaid at the beginning of July 2023. Glenside says Mr S refused to repay the remaining arrears as he didn't accept the £300 fee applied to the account.

The account went into further arrears at the end of July 2023. Glenside said Mr S told it this was intentional. The regular direct debits were missed in August, September and October 2023.

Glenside says there had been a lack of contact with Mr S since the beginning of August 2023 and it was concerned about the car. It reported the issue to the Police at the end of October 2023.

In November 2023, the Police took possession of the car and it was delivered to a Police compound. Glenside moved the car to another storage facility. Glenside then says due to a lack of response about the situation from Mr S, it then sold the car and made Mr S aware he owed £5,958.16 under the agreement.

Mr S was unhappy with this and complained. In summary, he said Glenside hadn't acted reasonably when he got into financial difficulty . He said he hadn't been treated fairly when the car was sold. And he said the car was protected under relevant legislation and Glenside

should've taken him to court to repossess it.

Mr S said he should get back all sums paid towards the agreement, money back from insurance, loss of earnings, the sale proceeds, £30 per email sent and £1,000 to reflect the distress caused.

Glenside issued a final response in March 2024. This letter explained what happened and Glenside's stance in some length. But, in summary, it said it thought that overall, it mostly supported Mr S when he was in financial difficulty, noting the issues with communication between the parties involved at times.

Glenside explained that it thought it was reasonable to have reported the car stolen to the Police, given it said Mr S had told Glenside that he had deliberately withheld repayments to it. Glenside explained that it took initial steps to seek a court order to repossess the car. But, it said Mr S voluntarily surrendered the car to the Police before this progressed.

Glenside said even if the protection Mr S mentioned did apply, it was the Police who recovered the car. Glenside also said it was reasonable to then treat the car as abandoned, as it was in Police storage and Mr S had stopped communication.

Glenside said that it should have stressed the importance of open banking to Mr S when it communicated with him. And it said it should have "*sought to be more reconciliatory"* when speaking to Mr S's representative at times.

In order to resolve things, Glenside said it would write off the outstanding balance of £5,958.16.

Mr S remained unhappy and referred the complaint to our service.

Our investigator issued a view and did not uphold the complaint. In summary, he said he didn't think section 90 of the Consumer Credit Act 1974 ('S90') applied because he said Mr S didn't breach the terms of the hire agreement. And he thought Glenside's offer to put things right was reasonable to reflect the issues it noted.

Mr S disagreed and replied at some length. He said, in summary, that Glenside's actions were unfair, unreasonable and were harassment. He said it was unreasonable to send default notices and termination notices. He said Glenside had raised a malicious and vexatious report to the Police. He said the Police seized the car from his house without his permission after he tried to amicably resolve things with them. He said Glenside unlawfully repossessed the car without his permission or a return of goods order. And he said the agreement was showing as settled on his credit agreement.

Our investigator responded and explained he thought there was no obligation on Glenside to get a return of goods order, as the car was not owned by Mr S.

Glenside also responded to our service and said the Police had advised it that Mr S voluntarily provided them with keys to the car and had initiated the removal of the car himself.

Mr S responded again and reiterated that he thought Glenside couldn't recover the car without a court order, as he had paid over one third of the amount due under the agreement when the car left his possession. And he reiterated that he thought involving the Police was attempting to avoid legal process and was an abuse of power.

As Mr S remained unhappy, the case was passed to me for a decision. I sent Mr S and

Glenside a provisional decision on 30 April 2025. My findings from this decision were as follows:

Mr S complains about actions taken in relation to a hire purchase agreement. Entering into regulated consumer credit contracts as a lender is a regulated activity, so I'm satisfied I can consider Mr S's complaint about Glenside.

I will start by explaining to both parties that I may not comment on every single piece of evidence or point raised. In my decision, as I've done in the background above, I'm going to set out what I think are the key points to consider. Where I haven't commented on something, this doesn't mean I consider it unimportant. I've carefully thought about everything both sides have said and submitted. But, I'm going to focus on what I consider to be the crux of Mr S's complaint, which reflects the informal nature of our service.

I will also say that, unfortunately, there has been a very clear breakdown in the relationship between the two parties here. Both have provided detailed information and timelines and this differs in parts. Some of the testimony is directly contradictory. For instance, what happened when the Police took possession of the car is quite clearly in dispute. So, it's important to stress that I need to make my findings based on what I think most likely happened.

It's also worth initially setting out that the writing off of the outstanding debt owed by Mr S has been mentioned as an 'offer' both in Glenside's final response to the complaint and in its communication with our service. But looking at the statement of account, I can see the balance owed has already been written off. Mr S has also confirmed this is the case and explained that the debt is showing as settled on his credit file. So, I find this action has already been taken. If I am incorrect about this, Glenside and Mr S should let me know in response to this provisional decision.

Mr S has raised various issues. I think the crux of the complaint and the most contentious issue at hand is what happened when the Police got involved and Mr S no longer had the car in his possession. So, I'll address this first.

Firstly, I think it's important to cover off the argument Mr S makes about the car being 'protected goods'. This agreement was regulated, so S90 is relevant here. This states:

"(1)At any time when—

(a)the debtor is in breach of a regulated hire-purchase or a regulated conditional sale agreement relating to goods, and

(b)the debtor has paid to the creditor one-third or more of the total price of the goods, and

(c)the property in the goods remains in the creditor,

the creditor is not entitled to recover possession of the goods from the debtor except on an order of the court."

"Goods falling within this section are in this Act referred to as ""protected goods ""."

Section 91 of the Consumer Credit Act 1974 ('S91') sets out the remedies for a breach of S90:

"If goods are recovered by the creditor in contravention of section 90—

(a)the regulated agreement, if not previous terminated, shall terminate, and

(b)the debtor shall be released from all liability under the agreement, and shall be entitled to recover from the creditor all sums paid by the debtor under the agreement."

The first thing to consider is whether the car was 'protected goods' as above, or not, at the time in question. Our investigator initially said he didn't need to consider this further, as there wasn't a breach of the agreement. But, I disagree on this point. At the time the car was reported stolen, Glenside had issued default notices specifically stating that Mr S was in breach of the agreement due to nonpayment.

Our investigator later said S90 didn't need to be considered as Mr S didn't own the car, and concluded this meant Glenside didn't need to get a return of goods order. But, I can't see the logic here. It isn't in dispute that Mr S didn't own the car – this is clearly stated in the agreement and Mr S also clearly understands and agrees with this point. Glenside were the creditor and owner of the car –which means point (c) is met above and so I do need to consider S90.

I've seen a copy of a default notice from 29 September 2023. This states:

"Total amount paid as at today's date: £5,373.20"

The total 'price of the goods' under the finance agreement was £7,995. So, Mr S had clearly paid over one third of this amount.

So, considering this, I agree with what Mr S said here. At the time the car was reported stolen, it was in fact 'protected goods'. And this meant Glenside couldn't take possession of it, from Mr S, without a court order.

I want to acknowledge Mr S's argument here and I appreciate the frustration he's had getting this point across. However, this isn't the end of the story. I still then need to consider if Glenside did take possession of the car from Mr S. But, I'm satisfied it did not. I'll explain why.

While Glenside has said it had concerns about the car, it doesn't seem in dispute that in fact it remained in Mr S's possession at the point the dispute was reported to the Police.

How the Police came to be in possession of Mr S's car is in dispute here and there are significantly differing versions of events from Mr S and Glenside. However, all parties agree that, one way or the other, it was the Police that initially took, or were given, Mr S's car – not Glenside. And it isn't in dispute that Glenside then took possession of the car from the Police – not from Mr S.

This changes the considerations in S90. As above, this states:

"the creditor is not entitled to recover possession of the goods ***from the debtor****" (emphasis added by myself).*

I find that Glenside didn't recover possession of the goods from the debtor, Mr S, it recovered it from the Police.

Glenside then appears to have offered Mr S the opportunity to take back possession of the car once it collected it. As Mr S didn't respond, at this point I can see why Glenside says it treated it as abandoned.

Given this, I'm satisfied that while the car was protected goods, Glenside didn't breach S90. It follows that it doesn't need to take the actions given under S91. And I'm satisfied relevant

case law covers this point and is consistent with my conclusions.

I have considered if the Police were acting as an agent of Glenside. But, I'm satisfied it was not. The Police are totally independent from Glenside. And once the car was reported stolen, whatever happened next, it was the Police who decided what course of action to take.

I have gone on to consider whether Glenside acted reasonably when it reported the car stolen. Mr S has said it believes it did this in order to avoid getting a court order.

Glenside reported the car stolen to the Police at the end of October 2023. At this point, three default notices had been issued, the last payment to the account was a manual one in September 2023 and all direct debits had been returned for around six months prior to this.

Glenside has explained Mr S told it he had been withholding payments intentionally and refused to confirm that he intended to make payment going forward. And it also said it hadn't been able to contact Mr S for several weeks at the time.

Glenside explained at this point it became concerned that Mr S intended to keep the car without making payments towards the agreement, or to sell it without permission.

On one hand, I can see the points Glenside makes here. And as I've explained, I think it's clear the relationship had broken down between the parties at this time.

On the other hand, at that specific time I'm not sure Glenside did have legitimate concerns about the whereabouts of the car. Being concerned that Mr S intended to do something is not the same as believing that he had done it. I've also noted from its contact notes from the time:

"REPORTED AS STOLEN TO ('county name') POLICE - REF ('crime reference number') – ***Trying this approach before going for ROGO****." (emphasis added by myself)*

I will say this is, at the least, concerning. Clearly, it's difficult to judge what Glenside's thoughts and intentions were at the time. I also need to exercise caution and not put too much weight on a single sentence without any context around it. And I can also see from the contact notes it appears Glenside were continuing the process of getting a court order once the issue had been reported to the Police.

That being said, the above could imply Glenside reported the car as stolen as an alternative to seeking a court order. To be very clear, I do not think this would be a reasonable course of action if true, and Glenside should not be taking this approach. If this was what happened, and Glenside didn't have legitimate concerns about the car, I think this would've caused Mr S a significant amount of distress and inconvenience by getting the Police involved unnecessarily.

It's very hard to reach any firm conclusions on this point. However I don't need to make a finding specifically about what I think happened here. I say this because if I did find Glenside had acted inappropriately, I still wouldn't find it breached S90 for the reasons explained above. But I would consider making an award for the distress and inconvenience it caused Mr S.

Glenside has already written off around £6,000 of debt that Mr S owed and marked the agreement as settled. Thinking about things in the round, I'm satisfied this offer is enough to put things right whatever happened.

Mr S has also raised other points about how he was treated. I don't intend to cover off these

issues in as much detail. I say this as Glenside has already accepted it could've done things better in parts. But it's still worth mentioning these.

Mr S has raised that it wasn't fair for Glenside to send default notices. Looking at the overall picture here, Mr S frequently had direct debits returned and had been missing payments under the agreement for a significant time. And the relationship, as I've already said, had broken down. So, I don't think Glenside did anything wrong by issuing these under the specific circumstances of this case.

Mr S has also stated he wasn't treated fairly in general terms when he got into financial difficulty. Glenside had various responsibilities here, including those set out by the Financial Conduct Authority ('FCA') in the consumer credit handbook ('CONC').

CONC 7.3.4 states:

"A firm must treat customers in or approaching arrears or in default with forbearance and due consideration."

CONC 7.3.6 states:

"Where a customer is in default or in arrears difficulties, a firm should allow the customer reasonable time and opportunity to repay the debt."

Initially, I can see both parties were engaging about the account, missed payments and arrears. Glenside was giving time to Mr S to repay and appears to have been willing to set up a repayment plan. But significant issues seem to have begun when Glenside asked Mr S to sign up to open banking, which he did not want to do. This then led to agents being appointed and the £300 charge being added to the account.

I don't think the request to agree to open banking was unreasonable under the circumstances. But, I do agree with Glenside that it should've explained why this was required in more detail. I also think it could've explored alternatives with Mr S, like completing an income and expenditure report.

Glenside has also said in general terms that it should've treated the situation differently and sought to reconcile things with Mr S when the relationship soured.

So, I do think there are failings here. But again, I've considered that Glenside has written off the debt Mr S owed. Under the circumstances, I don't think it needs to do anything further to put these issues right.

Mr S has also disputed whether Glenside could add the £300 charge to the agreement when it appointed a third party to act for it. The terms and conditions of the agreement Mr S entered into stated:

"You agree to pay us…….. our reasonable legal and other costs for enforcing this agreement, including costs incurred in tracing you or the Vehicle and costs payable to third parties acting on our behalf"

In any event, this figure would've been included in the amount written off. So, I find Glenside needs to take no further action on this point.

I want to reassure Mr S that I've carefully considered everything else he's said and gone through all of the details and points he's submitted to our service. But, this doesn't change my opinion.

I gave both parties two weeks to respond with any further comments or evidence. Both Mr S and Glenside replied with points for me to consider.

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 response to my provisional decision Glenside explained it didn't report the issue to the Police as an alternative to getting a court order. It said it had genuine concerns about the car. And it said it understood the wording of the contact note I quoted above was ambiguous and apologised for this.

Mr S responded at considerable length. In summary, he set out a detailed timeline of events and reiterated his complaint points. He also provided some of the emails and letters from Glenside.

I'd like to thank Mr S for the detailed email and I appreciate this will have taken some time. I hope he won't find it disrespectful for me not to echo the length of his response here. I've carefully considered everything he said. But I'm satisfied the points he raised have been covered off in my provisional decision and my thinking has already been explained.

Having thought about all of the information on the case again, including carefully considering everything Mr S and Glenside said in response to my provisional decision, I still think this complaint should not be upheld. This is for the same reasons explained in my provisional decision and set out above.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 13 June 2025.

John Bower
Ombudsman