

The complaint

Mr J complains that Pendragon Finance and Insurance Services Limited misled him about the terms on which he would be able to obtain motor finance without telling him in advance. I'll refer to it under its trading style of Evans Halshaw.

What happened

On 29 May 2023 Mr J placed an order with Evans Halshaw for a new car. At the time, the manufacturer, through its lending arm, which I'll call "S", was offering a 36 month interest-free hire purchase deal on new cars. So, as well as placing the order, Mr J also completed an application for finance on those terms. He also agreed that Evans Halshaw would take his father's car in part exchange, and a price was agreed.

Because Mr J was acquiring a new car, it was not immediately available. It was delivered to Evans Halshaw on or about 2 September 2023. When Mr J went to collect it, however, he was told that the interest-free finance was no longer available over a 36 month term. The manufacturer had replaced that offer with a 24 month deal. Although it was also interest-free, the changed arrangement would require Mr J to make a higher lump sum payment at the end of the term; other payment terms were also slightly different.

Mr J says that he felt he had little option other than to accept the terms on offer, but he complained to the finance company and to Evans Halshaw.

Evans Halshaw said that, in line with its usual practice (and that of the industry generally), it had not submitted Mr J's finance application to S until delivery of the car was imminent. By that time, the interest-free offering had changed. Mr J was told that before he completed the hire purchase agreement. He could have cancelled the order completely, had he wanted to do so. Mr J said that was not a realistic option. He thought Evans Halshaw should have told him earlier that the interest-free offer had expired, so that he could have taken some time to consider his options.

Mr J referred the matter to this service, where one of our investigators considered what had happened. She issued a preliminary assessment in which she recommended that Evans Halshaw pay Mr J £450 by way of compensation. She thought its actions amounted to a misrepresentation about the terms of the finance agreement.

Neither Mr J nor Evans Halshaw accepted the investigator's recommendation, so the case was passed to me for further consideration. I considered carefully what had happened and issued a provisional decision in which I said:

I don't believe that any of the key facts are in dispute in this case. Mr J applied for a 36 month finance deal. It was not processed immediately and, by the time the car was available for delivery, it had been replaced. And Mr J was not told that the original offer was no longer available until the point at which he took delivery of the car. The issue I must consider is whether, in those circumstances, it would be fair and reasonable to require Evans Halshaw to compensate Mr J, or otherwise take steps to resolve his complaint.

First, I do not believe that Mr J has a valid claim in misrepresentation. As the investigator indicated, a misrepresentation in law occurs where one party to a contract makes a statement of fact or of law which is incorrect and which induces the other party to enter into a contract.

I accept that Mr J believed until shortly before he took delivery of it that he could take the car on a 36 month hire purchase contract. But, by the time he took delivery, he knew that was no longer the case. He cannot therefore have been induced by incorrect statements about the finance offering to agree a 24 month deal. He has not suggested that he did not know that the finance agreement he agreed to was for 24 months. And I note too that the finance agreement was not with Evans Halshaw, but with the finance company; Evans Halshaw acted as its agent.

I can understand that Mr J was disappointed when he found out that the terms on which he could take the car were not as favourable to him as he had thought they would be. There is no question that, when he placed his order, he fully expected to have the car on hire purchase for three years. He confirmed that on the order, and it is consistent with the insurance arrangements he made.

I do not believe however that, if Evans Halshaw has acted differently – for example, by warning Mr J that the deal might not be available by the time the car was delivered – his position would have been significantly different. The delivery date was not in his or Evans Halshaw's control, and neither could they know what finance offers would be available at the point of delivery.

Evans Halshaw has explained, and I accept, that Mr J could have cancelled his order but chose instead to go ahead on the terms which were available at delivery. I appreciate of course that he may have been reluctant to do anything different, having ordered a car to his specification and waited some months for delivery, but he did have other options.

I do note as well that Mr J says that his father's car had already been taken in part exchange, so he would have been left without a car. Evans Halshaw disputes this, saying that part exchanges are completed at the same time as sales. Be that as it may, Mr J was not, in my view, compelled to go ahead on the terms he had been offered. And, since he did, I do not believe it would be fair to require Evans Halshaw to compensate him.

Mr J did not accept my provisional conclusions, so I have reviewed the case again.

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.

Further evidence submitted after my provisional decision shows that the part-exchange was, as Mr J says, completed a few months before the new car was delivered. Mr J says this was part of the reason he felt compelled to accept the 24-month finance deal in September 2023. He did not have an alternative means of transport and needed a car to get to and from college.

In my view, however, the completion of the part-exchange might indicate that Mr J had no option but to complete his acquisition of the new car from Evans Halshaw. The amount Evans Halshaw had agreed to pay for the used car affected the price of the new car. It is arguable therefore that part of the overall deal Mr J had agreed was completed before there was any indication that the finance offering had changed.

Evans Halshaw's standard terms set out the circumstances in which a buyer of a new car can cancel the contract. They are relatively limited, as is to be expected where a customer chooses certain aspects of the car's specifications. They include, for example, where the

manufacturer has increased the price; they don't include, however, where the finance offerings which are available have changed. There is in my view a strong argument that, if Mr J had tried to cancel his order, Evans Halshaw could have refused to accept that cancellation.

Having considered very carefully what both parties have said about what happened when Mr J collected the car, however, I do not believe that is what happened in this case. Evans Halshaw says that Mr J could have walked away from the deal, rather than accepting it with the two-year finance arrangement. I accept that it gave him that option, as well as the option of making different finance arrangements. I can understand too that Mr J may have felt that he had little option at that stage but to go ahead, but I do not believe he was compelled to do so.

Having concluded that Mr J was not bound to go ahead and accept the car (because Evans Halshaw was prepared to let him walk away), I need to consider whether he was entitled to insist on a three-year hire purchase term. That is, had he signed an agreement to that effect? Of course, the credit provider in this case was S. I believe that Evans Halshaw had indicated to Mr J that S would provide a three-year arrangement, but no offer had been made on those terms, since the application had never been submitted. There was never any agreement on the part of S or Evans Halshaw to enter into a three-year agreement with Mr J.

I think it would have been helpful if Evans Halshaw had explained when Mr J placed his order that the finance offerings available might change by the time of delivery and that, if they did, it would not compel him to take delivery of the car (if indeed that is its usual position). I don't believe however that it could have done any more. And if it had said that, it seems to me very likely that Mr J would have gone ahead in any event – and found himself in much the same position he is in now.

Finally, I would say that it is not entirely clear that Mr J is in a worse position financially than he would have been with a three-year arrangement. A final payment to buy the car is likely to be higher than it would have been under a longer agreement, but against that it's likely that the car's value will be greater after two years than after three.

My final decision

For these reasons, my final decision is that I do not uphold Mr J's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 28 July 2025.

Mike Ingram
Ombudsman