

## The complaint

Mrs G complains that insurance policies sold alongside a car supplied under a conditional sale agreement with Hyundai Capital UK Limited trading as Kia Finance (Kia) weren't provided.

This complaint has been referred to this service by a representative on Mrs G's behalf. For ease, I've only referred to Mrs G throughout this decision.

## What happened

In July 2022, Mrs G was supplied with a new car through a conditional sale agreement with Kia. The total cash price of the goods was £42,667 – which included GAP insurance and tyre and alloy cover. Mrs G made an advance payment of £10,750 and the agreement was for £31,917 to be repaid over 37 months; with 36 monthly payments of £437.11 followed by a final payment of £21,737.61.

Around two years later, Mrs G contacted her insurer to claim for a damaged tyre. Her insurer was unable to locate any policy in her name so couldn't process a claim. She contacted the dealership, who said they should have activated the policies when the car was supplied, but this didn't happen. The policy documents were sent to Mrs G in September 2024 – with a start date of July 2022. Mrs G noted that the documents weren't correctly addressed to her – as they were missing part of her surname – and that she hadn't signed them.

Mrs G made a complaint to both the dealership and Kia. The dealership agreed to refund the cost of the policies to Mrs G (£918). It also paid the cost of the tyre claim she'd attempted to make as well as some additional taxi costs. Kia agreed to refund the interest paid towards the policies to date (£138.44) and offered a further £200 to apologise. Mrs G didn't think this went far enough. She said the dealership's failure to activate the insurance policies constituted a breach of contract. She said she no longer wanted the car and exercised her right to voluntarily terminate the agreement. The car was collected, and Kia told Mrs G she still owed £1,192.70. This included a voluntary termination liability of £1,122.70 and a £70 collection fee.

The complaint was referred to this service. Mrs G said she only terminated the agreement early because of the serious breach of contract which had left her uninsured. She accepted that Kia was entitled to charge for voluntary termination and collection but felt it was unfair to do so in these circumstances – as she had no choice but to return the car because of the dealership's errors. She said Kia had failed to meet its obligations under the Consumer Rights Act 2015 (CRA), as the goods weren't as described or fit for purpose. Our Investigator considered the complaint but didn't uphold it. They thought there likely had been a misrepresentation – as the dealership had told Mrs G her agreement had funded policies which weren't activated. But they were satisfied this had effectively been remedied – as Mrs G had received a refund of the premium and interest. They didn't think the error had caused Mrs G any significant detriment and thought Kia's offer was fair in the circumstances. They were satisfied the voluntary termination and collection fees had been applied fairly – as it was ultimately Mrs G's choice to return the car early.

Mrs G didn't agree. In summary, she said there had been a fundamental breach of contract which Kia was jointly liable for with the dealership. She said the requirement for her to pay half the total balance to terminate the agreement was unfair in the circumstances and shouldn't be enforced. She said being uninsured without her knowledge put her at risk, and she had to take reasonable steps to avoid any further loss. She said the purpose of contract law was to protect customers from bearing the burden of a business' mistakes in circumstances such as these. She asked for the complaint to be referred to an Ombudsman for a final decision. So, it's been passed to me to decide.

### **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 done so, I've reached the same overall conclusions as our Investigator – for broadly the same reasons. I'm aware I've summarised Mrs G's concerns in less detail than she has. This isn't intended as a discourtesy – but reflects the informal nature of my role. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome. Where evidence has been incomplete or contradictory, I've reached my decision on the balance of probabilities – what I think is more likely than not to have happened given the available evidence and wider circumstances.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. While I've taken the law into account, my role is ultimately to reach a decision based on what I consider to be fair and reasonable – rather than to make a legal determination. Mrs G was supplied with a car and associated insurance policies under a conditional sale agreement. This is a regulated consumer credit agreement which means I can consider a complaint about it.

It's important to note that in this decision I've only considered Mrs G's complaint about Kia's actions and obligations as a finance provider – not about the arrangement of the insurance policies themselves. The dealership who sold Mrs G's insurance policies is a separate entity – and I understand Mrs G has contacted them separately about the arrangement of the policies.

Mrs G has referred to Kia's obligations under the CRA, which covers agreements such as the one Mrs G entered into. Under this agreement, there is an implied term that the goods supplied will be of satisfactory quality. The CRA says that goods will be considered of satisfactory quality where they meet the standard that a reasonable person would consider satisfactory – taking into account the description of the goods, the price paid, and other relevant circumstances. In this case, Mrs G hasn't raised any concerns about the car itself – only with the insurance policies included under the agreement.

Mrs G says there was a fundamental breach of contract when the dealership failed to activate the insurance policies. I think the crux of her argument is that she feels the goods supplied under the agreement were misrepresented to her – which induced her to enter into it – and that Kia failed to supply some of the goods under the agreement. I've considered this. Section 56 of the Consumer Credit Act (1974) outlines that finance providers such as Kia can be held liable for what's said by a credit broker or supplier before an agreement is entered into.

Mrs G says, in summary, she was told by the dealership that the goods supplied under her agreement included two insurance policies; GAP insurance and tyre and alloy cover – at a total cost of £918. The agreement contains a list of goods supplied – which includes 'motor

insurance'. While the agreement doesn't specify that this means GAP insurance and tyre and alloy cover specifically, all parties seem to accept that this is the case and the policy documents I've seen supports this.

It's not disputed that – for reasons unknown – the insurance policies weren't activated by the dealership. I think this was likely an administrative oversight by the dealership – but the reasons behind the error aren't relevant here. Effectively, the policies weren't provided to Mrs G when they ought to have been. And Mrs G says that ensuring the car had valid insurance was a key factor in her decision to take the agreement – as she wanted to ensure she was protected by GAP cover in the event of an accident.

Taking these points into account, I can understand why Mrs G feels there's been a misrepresentation here – and that Kia didn't meet its obligation to supply all of the goods listed under the agreement. Ultimately there's no dispute that an error was made, that the policies weren't activated or that Kia is liable for this. So, I don't think I need to comment in detail on this point. But my consideration of the complaint doesn't end there, I also need to consider what would amount to a fair remedy in the circumstances. While I understand Mrs G's preference was to exit the agreement entirely, there may have been other suitable remedies to consider first. I also need to consider what's fair and reasonable.

After Mrs G made the dealership aware of its error, it arranged to send the policies to her. I note Mrs G's point that these policies contained errors – specifically, part of her surname was missing, and the declaration hadn't been signed by her. But I haven't seen anything to suggest these issues couldn't have been remedied by the dealership or that the policies wouldn't have been honoured if Mrs G needed to make a claim in future. The policies covered the full duration of Mrs G's agreement. And because the tyre and alloy policy hadn't been activated at the point Mrs G tried to use it, the dealership stepped in and covered the costs she was claiming for. The dealership and Kia later offered a full refund of the policies along with the interest Mrs G paid towards them.

Taking everything into account, I'm satisfied that – even if there was a misrepresentation or the terms of the agreement had otherwise been breached – the matter has effectively been put right for Mrs G. I think that – in practical terms – the dealership arranged to provide Mrs G with the cover that she paid for and offered a reasonable alternative by agreeing to refund the policies at her request. And I haven't seen anything else to suggest that Mrs G was put at a disadvantage by the policies not being activated during the first two years of the agreement – as the only claim she needed to make during that time was covered by the dealership.

Finally, Mrs G says the agreement included an unfair term – which cannot be binding upon her. Specifically, she says the contract included (and required payment for) insurance policies which weren't properly executed. While I note this, I haven't seen anything in the agreement that seems likely to constitute an unfair term, or that any terms create any imbalance in the parties' rights or obligations. Even if I were to consider the requirement to pay for insurance policies to be unfair on the basis that they weren't activated in error, Mrs G has already been refunded the amounts due under the agreement for those policies.

#### *Voluntary termination*

Because Mrs G no longer wanted the car, she exercised her right to voluntarily terminate the agreement. In some instances, voluntary termination allows the hirer to simply hand back the car without having to pay anything more. But this is dependent on, amongst other things, how much has been paid towards the agreement, whether there are arrears to be paid, the condition of the car and whether any excess mileage or other charges are due.

S99 of the CCA sets out that a consumer can terminate a hire agreement early by giving notice – and that doing so doesn't affect any other liabilities accrued under the agreement up to that point. S100 goes on to set out that if an agreement is terminated early the consumer is liable for half of the total sum due under the agreement. The agreement also sets out that if terminated early, Mrs G needed to pay half the total amount payable (£24,111.79). At the point she asked to terminate the agreement, Mrs G had paid a total of £22,989.08 towards it. So, I'm satisfied Kia acted in line with the terms of the agreement – and the CCA – when it asked Mrs G to pay a further £1,122.70, as this was the balance required to reach the half-way point.

The agreement goes on to outline the following:

***“8 YOUR RIGHT TO TERMINATE***

***8.1 You can terminate the agreement as described in the notice headed ‘Termination: Your Rights’ shown on the second page of this agreement at any time before the final payment falls due. You must return to the goods to us at your own expense in good repair and condition (...)***

***8.2 if you require us to collect the goods from you we may make a charge not exceeding the amount shown in clause 9.5.3 below as a contribution to our collection costs (...)***

Section 9.5.3 outlines a collection cost of £70 upon voluntary termination. I think this requirement satisfied the provisions set out in S99 of the CCA. So, under the terms of the agreement, Kia was entitled to apply the £70 charge when Mrs G asked it to collect the car.

Mrs G says that – in the unique circumstances of her complaint – these charges shouldn't apply. She says this because she effectively had no choice but to return the car and terminate the agreement, and that not doing so would have left her vulnerable to further loss.

As I've outlined, I'm satisfied that the dealership and Kia took reasonable steps to put things right for Mrs G. I also can't see that Mrs G explored any other options – such as purchasing cover elsewhere – before she decided to terminate the agreement. So, while I understand Mrs G's point that the decision to voluntarily terminate was outside of her control and an unavoidable consequence of Kia's errors, I don't agree. While I can appreciate why Mrs G might have preferred to exit the agreement given what had happened, it was ultimately her choice to do so.

***Other considerations***

I've gone on to consider Kia's offer of compensation. Mrs G says the offer of £200 doesn't fully recognise the distress, inconvenience and financial risk caused by Kia's errors. She's referred to the time and effort taken to sort things out, as well as reputational damage she's incurred and the eventual inconvenience of terminating the agreement and losing the car.

I don't doubt that it would have come as a shock and disappointment to Mrs G to discover the policies hadn't been activated – especially as this only happened when she wanted to make a claim. And she was put to some inconvenience when she had to contact her insurer, the dealership and Kia to get to the bottom of what had happened. For the reasons I've explained, I don't agree the need to terminate the agreement was a direct result of Kia's errors. I also haven't seen anything to persuade me that Mrs G has suffered reputational damage at any stage. While I acknowledge Mrs G feels she was put at risk by being uninsured, I can only consider what has happened as a result of Kia's error – not what could potentially have happened. I can also see that Kia sent Mrs G an arrears notice in error when it should have sent details of the voluntary termination – causing further confusion and frustration, but I haven't seen anything to suggest there was any further impact to Mrs G as a result of this. Taking these circumstances into account, I find Kia's offer of £200 a fair

reflection of what happened here.

Mrs G has also mentioned legal costs incurred as a result of Kia's errors. I haven't seen any evidence of these costs, nor have I seen anything to suggest these were unavoidably incurred. Mrs G had the option of referring her concerns to this service if unhappy with Kia's conduct – as she eventually did. So, I don't require Kia to reimburse her legal costs.

I appreciate this will come as a disappointment to Mrs G, but for the reasons I've explained I'm satisfied Kia has done enough to put things right. So, I won't be requiring Kia to waive the voluntary termination or collection fees. I'm satisfied Kia's offer to pay £200 in addition to the interest paid towards the policies is fair in the circumstances – and I don't require it to do anything more than that.

Mrs G has recently contacted us about some letters she received regarding the outstanding balance – which she says are contradictory and request different amounts. That's not part of the complaint I've considered – and if Mrs G is unhappy with the recent correspondence she's received, she can raise that with Kia in the first instance.

### **My final decision**

The business has already made an offer to pay £200 compensation and refund interest of £138.44 to settle the complaint, and I think this offer is fair in the circumstances. So, my final decision is that Hyundai Capital UK Limited trading as Kia Finance should pay Mrs G these amounts, if it hasn't already.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G to accept or reject my decision before 9 January 2026.

Stephen Billings  
**Ombudsman**