

The complaint

Miss K complains that Secure Trust Bank Plc trading as Moneyway ('STB') mis-sold her a car on finance.

What happened

The parties are familiar with the background details of this complaint – so I will briefly summarise them here. It reflects my role resolving disputes with minimum formality.

Miss K took out a hire purchase agreement on 2 March 2023. On 5 July 2024 she contacted STB to say that at the time of sale she had asked the dealer for an automatic car as she only held an automatic licence. She says the dealer told her an automatic was too expensive for her and she should finance a manual car which she can then use to pass her manual test on.

Miss K says she went ahead with the suggestion but hasn't passed her manual test – and is left with a car which she can't use or insure in line with the terms of the finance agreement. The car has travelled around 13,000 miles but Miss K says family members have taken temporary insurance on the car to drive her about but this is not sustainable. She wants STB to take it back. Miss K has also mentioned that the dealer told her the warranty would be free but she was charged for it.

STB did not uphold the complaint. Miss K escalated the complaint to this service but our investigator did not uphold it either.

Miss K has asked for the matter to be considered by an ombudsman for a final decision.

I issued a provisional finding not upholding the complaint which said:

What I've provisionally 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.

While I might not comment on everything (only what I consider key) this is not meant as a discourtesy to either party – it reflects my role resolving disputes with minimum formality.

In considering what is fair and reasonable, I need to have regard to the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and (where appropriate) what I consider to have been good industry practice at the relevant time.

The agreement in this case is a regulated consumer credit agreement. As such, this service is able to consider complaints relating to it.

I note that Miss K's complaint appears to centre on allegations of mis-sale of the finance agreement. In considering this complaint against STB I note by way of

Section 56 of the Consumer Credit Act 1974 that it is responsible for the actions of a credit broker arranging the finance on its behalf. However, it isn't clear to me what capacity the dealer (whom Miss K appears to be unhappy about) was acting here in arranging the finance as there seems to be a third party broker involved here too. Nevertheless, because I am not upholding this complaint in any event I do not think it necessary to go into the nature of the arrangement in great detail at present.

Miss K might have an argument that the dealer (and therefore STB) had acted unfairly, if she were able to show that it pressured her into entering into an arrangement she didn't want to and/or it was aware she only held an automatic licence and supplied her a manual car knowing it would put her in breach of the finance agreement. However, I don't think the evidence supports this being the case. I will explain why.

The testimony of the dealer contradicts what Miss K says. Miss K says she came to it looking for an automatic car but was persuaded to get a manual. A decision which has led to her being in a detrimental situation. The dealer denies this and says she never mentioned that she had an automatic licence when viewing and agreeing on the car. I don't have recorded evidence of what took place at the time of sale so I can't prove either way which recollection is accurate with great certainty. It is effectively one word against the other. So any decision I make is based on the balance of probabilities and via the limited circumstantial evidence available.

I note here the dealer says the day before Miss K attended its site she made an enquiry to it about the specific car subject to the finance. And that the car was clearly advertised as a manual transmission. Miss K says she made no such enquiry and did not see any advert. However, I note the dealer has provided notes from its computer system which appear to show Miss K made an enquiry to it on 1 March 2023 about the specific car a day before she attended to view the car, finalise the agreement and take the car away.

The dealer says Miss K made the enquiry via a mainstream car website. I am unsure if there was also an online query too but I note there is a screenshot of a dealer system note that logs enquiries about the car saying Miss K made a telephone enquiry about it. And there are records of text messages sent to her from its system dated 1 March 2023 and confirming an appointment to see the specific car (the numberplate is specified). This would indicate that before contacting the dealer Miss K had seen the advertisement for the specific car she wanted – which I have seen and clearly states it is a manual vehicle. This indicates Miss K's came to the dealer looking for a specific manual car.

I know Miss K has indicated she never saw an advert – and that the dealer system notes are not authentic. But the system notes (which I will ask our investigator to provide a copy of to Miss K) seem credible. I don't have persuasive evidence to show otherwise.

In summary, the system notes from the dealer's booking system suggest that Miss K approached the dealer with the intention of funding a specific manual car rather than an automatic. Undermining the allegation that it was the dealer which suggested this.

I also note that Miss K's allegations came around a year after the sale. I appreciate Miss K says she didn't realise she could complain about it. But I note she had many interactions with STB prior to this about missed payments and the reasons for this (based on the system notes I have seen and which I will ask the investigator to provide to Miss K). During these calls she had the opportunity to mention she was unhappy about paying for a car she felt she was unable to use due to the actions of the dealer. Yet I can't see where she did that.

There is also a particular call which Miss K made to STB on 20 July 2023, several months after taking the car which appears particularly notable. I will ask the investigator to provide a copy of this to Miss K too. In this call Miss K says to STB:

'I did get a car that was manual [after holding an automatic licence for several years] because I was hoping I would pass the test...so when I got this car I was hoping I would pass and everything...I am really struggling with manual car and I was wondering if I can upgrade or swap to a car that is automatic'

During this call Miss K doesn't mention that the dealer talked or pressured her into getting a manual as I would have expected her to noting how crucial it is in the context of her later allegations. It comes across as her idea and intention all along. I question why she wouldn't have said anything at this point, particularly noting that at this time STB quoted her a significant settlement figure for coming out the agreement rather than a simple swap of the car. Not raising the later allegations on this call, and the overall delays in raising them makes them less persuasive.

I also question what the dealer had to gain by pushing Miss K toward a manual car if she had clearly come in and requested an automatic. Particularly if she had made it known she only held an automatic licence. From what I can see from its website it seems it has many automatic cars available in a similar price range to the car Miss K took on.

I want to underline that it is always difficult to determine what was said with an unrecorded conversation. So I can't say for sure what happened. But, the circumstantial evidence, indicates that, on balance Miss K went into the dealer with the intention of financing a manual car to learn and hoped to pass on. And that this unfortunately didn't work out. There is not persuasive evidence the dealer suggested this, pressured Miss K into it or was aware of this being Miss K's ultimate goal.

I note Miss K says the dealer knew she held an automatic licence. But I don't think that is clear. While I can see it asked for a copy of her driving licence – this appears to be the front for identification purposes – which would not have shown the class of licence she had at the time of the sale. It appears that Miss K was with someone who may have driven the car to her home from the dealer – but it isn't clear to me if the dealer would have seen it (and it would have occurred after the sale in any event).

I note Miss K has referred to what STB should have done based on information that came to light to it about her automatic licence during the complaint procedure. However, what is relevant to the allegations of mis-sale are the facts as known at the time of the sale – not what Miss K has provided since. Furthermore, while I consider it is reasonable for STB to check Miss K has a current drivers licence. I think Miss K would have been expected to have known that the transmission did not match her licence and made relevant enquiries about whether this was permissible under the terms of the agreement she signed – which state the requirements for a 'valid' licence and fully comprehensive insurance.

I appreciate Miss K does not think it is fair to her that she has a car which she says she is unable to drive. However, I don't have persuasive evidence to show STB is at fault for this so I can't fairly say it has acted incorrectly. It follows that I am unable to fairly direct STB to swap the car or take it back on the terms she wants.

I think it is also worth noting (and putting aside any potential allegations of undue pressure- which are unsupported) that even if evidence suggested the dealer knowingly sold Miss K a manual car for the purposes of her initially learning with. This does not necessarily lead to a finding of mis-selling. I say this because it appears it is possible for learners to finance a car for that purpose as long as the car is suitably insured and any other relevant requirements of the finance company are met.

Aside from the requirement to keep the car comprehensively insured STB has not been entirely clear what its position is on Miss K financing a car to learn a manual gearbox on (or whether a 'valid' licence could be a provisional or automatic licence in that context) so at this stage it is difficult to say that the intended use is a breach of the agreement in itself. STB appears to be suggesting (and I invite it to clarify) that it will be satisfied for Miss K to continue with the agreement as long as she has someone comprehensively insure it. This would presumably allow Miss K to continue using the car to learn on if she wishes to do so.

I note Miss K has said the warranty she took out at the time was mis-sold as well. She says the dealer didn't tell her the cost and she thought it was included for free. I note that STB has confirmed that the warranty cost was included in the overall cost of the car which was ported over to the finance agreement. I note the cost of the warranty is not separately broken down on the invoice or finance agreement. And it isn't entirely clear what Miss K was told at the time of supply by the dealer about it. However, I note STB has produced a 'Demands and Needs' statement which it says Miss K confirmed she had been provided with that says she was recommended a two year warranty for £1,495. And I don't see any documentation confirming a 'free' or 'complimentary' warranty or otherwise. So it suggests Miss K could have been reasonably aware she was agreeing to a paid for product.

However, even if I were to accept that it wasn't clear the warranty formed part of the overall cost of the car, I would have to be satisfied that Miss K would have acted differently had it been made clearer. And because Miss K was willing to spend the same purchase price on a car with a two year warranty anyway – it seems unlikely she would have made a different decision in any event. So based on the limited information I have I am unable to fairly uphold this aspect of Miss K's complaint.

I know this will come as a disappointment Miss K. But unlike a court I am unable to compel witnesses, evidence or cross examine individuals. I remind her she does not have to agree with my decision and is able to pursue the matter through more formal avenues, such as court, should she wish to do so.

STB did not respond to my decision. Miss K responded to say, in summary:

- She is disappointed her complaint was not provisionally upheld, and although she does not have enough evidence to prove her case she stands by her claim that the car was mis-sold to her.
- She thinks the information showing she enquired about the manual car was probably filled out by the dealership during the phone call in which she says it suggested she should take this car, along with taking manual lessons and an exam.

- The dealer has failed to provide an actual enquiry she made to it on the day for an automatic car – the one that was not recommended by it due to it being out of budget. She clearly stated her desire for an automatic car during this call.

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 thank Miss K for her response to my provisional findings and I appreciate these will have come as a disappointment to her.

Miss K has acknowledged the difficulty here in making a finding based on the circumstantial evidence available. And unfortunately, while I have had due regard to her testimony, I don't consider what she has said adds much in the way of new information that would persuade me to change my findings here. In summary, there is not persuasive evidence that she enquired about a specific automatic car in the circumstances – and that the dealer convinced her to take a manual instead.

It follows that my final decision is the same as my provisional decision – for the reasons as stated in that decision (and copied above).

Miss K has said she is not sure what options STB will offer her now. It is not for me to clarify this – however, I encourage STB to engage with Miss K so she knows where she stands as to options for continuing with or ending the finance agreement. I also remind STB that it should treat Miss K positively and sympathetically in respect of any financial difficulties that she might be experiencing, or that might arise in connection with this agreement going forward.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 13 October 2025.

Mark Lancod
Ombudsman