

The complaint

Mrs F complains that Arnold Clark Automobiles Limited trading as Arnold Clark arranged a hire purchase agreement that wasn't suitable for her and misrepresented the terms of that agreement.

What happened

In January 2024, Mrs F contacted Arnold Clark as she was looking to obtain a new car through a credit agreement. She says she wasn't sure whether to upgrade to a more expensive model – as her job was at risk of redundancy. She recalls being told by the sales agent that she would be able to swap the car for a cheaper one if her circumstances changed.

Following this discussion, Mrs F was supplied with a used car through a hire purchase agreement with a finance provider. The cash price of the car was £26,597. She part-exchanged her previous car, and the value was deducted from her previous agreement balance leaving a deposit of £650.69. The amount of credit under the agreement was £25,946.31 to be repaid over 48 months; with 47 monthly payments of £424.65 followed by a final payment of £12,713.50.

In April 2024 Mrs F contacted Arnold Clark, as she'd been told she would soon be made redundant and needed to swap the car for a cheaper model. The sales agent said she could trade in her car, but that doing so would leave a negative equity balance of around £2,100. They said Mrs F would need to either clear this balance herself or add it to a new finance agreement.

Mrs F made a complaint, as she felt the agreement had been mis-sold. She said she told the sales agent that her job wasn't secure, and that she was incorrectly told she could exchange the car with no penalty. She said she couldn't afford to clear the negative equity, so she was left struggling to make payments on a car that was too expensive for her. She felt she'd been incorrectly advised by the sales agent, and led to believe she wouldn't be locked into a long-term agreement if she could no longer afford the car. She wanted to return the car and asked that Arnold Clark cover the negative equity. She also asked for the difference between the amount she was paying each month and the amount she would have paid had she chosen a cheaper car.

Arnold Clark said there was no evidence to suggest that Mrs F told the sales agent her job was at risk, and that Mrs F was provided with the terms of the agreement before she accepted them.

The complaint was referred to this service. One of our Investigators considered the complaint but didn't uphold it. They didn't think there was evidence to show that the sales agent made a false statement of fact that induced Mrs F into taking out the agreement, or that Mrs F told them her job was at risk at the time. They said Mrs F was presented with the terms of the agreement which explained the process for ending it early.

Mrs F didn't accept the Investigator's conclusions. In summary, she said the risk of

redundancy was a key part of her conversation with the sales agent, and that making sure the car was affordable was a major concern for her. She's referred to emails that took place with the sales agent after the sale, which she thinks demonstrates they were aware her job wasn't secure before that point. She said she was misled into thinking the agreement was more flexible than it was. She said her monthly payments more than doubled because of the sales agent's mistake – which she's struggled to keep up with. Overall, she didn't think Arnold Clark had met its regulatory obligations. 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.

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. Mrs F has referred to Arnold Clark's obligations under the Consumer Duty and the Consumer Credit Sourcebook (CONC), which I've considered. Mrs F was supplied with a car under a hire purchase agreement, arranged by Arnold Clark. This is a regulated consumer credit agreement which means I can consider a complaint about how it was arranged.

Mrs F has raised two key concerns about the sale of this agreement. She says Arnold Clark arranged an agreement which wasn't suitable for her despite being aware of her circumstances, and that it misrepresented the nature of the agreement by telling her it was flexible and could be cancelled without penalty. I've considered each of these concerns.

Misrepresentation

There are two criteria for a misrepresentation to have occurred:

- A false statement of fact must have been made; and
- That false statement must have induced the customer into the agreement.

In this case Mrs F says she was told by the sales agent that the agreement was flexible, and that she could swap her car at any time without penalty. She says the affordability of any agreement was a key concern, and that she only went ahead with the application because of this statement.

The discussions Mrs F recalls with the sales agent took place in person and weren't recorded – so I can't determine with certainty what was said. So, I've considered what I find more likely than not on the balance of probabilities – taking Mrs F's recollection of events into account.

I've seen a copy of the credit agreement signed by Mrs F, which states:

“Your right to end this agreement

You have a right under s.99 Consumer Credit Act to end this agreement. To do so, you should write to us (...). We will then be entitled to the return of the Vehicle plus the cost of installing the goods plus half the rest of the total amount payable under this agreement, that

is £16,661.37. Under s.100 Consumer Credit Act, if you have already paid at least this amount plus any overdue instalments and have taken reasonable care of the goods, you will not have to pay any more.”

The information presented to Mrs F was clear that the purchase of the car was subject to a hire purchase agreement with a term of 48 months – and the agreement terms outlined how it could be ended early. There’s no mention in either the sales documentation or the agreement terms that the agreement could be ended early by exchanging the car for another one without penalty. I think it’s reasonable to expect that such a key feature of an agreement like this would have been mentioned within its documentation.

I also note that Mrs F’s previous car appears to have been subject to a finance agreement as well – and that she’d part exchanged it and put the equity towards the new car. So, I think it’s likely that she was reasonably familiar with how finance agreements worked and the part exchange process. The difference here was that the car was in negative equity when Mrs F asked about replacing it – so part exchanging wouldn’t leave a balance to put towards another car. While this is unfortunate, I don’t think it means the agreement was misrepresented to Mrs F. Even if the sales agent hadn’t mentioned the possibility of the car being in negative equity, that wouldn’t lead me to conclude that there had been a false statement of fact.

While I’ve taken into consideration Mrs F’s recollections, ultimately I haven’t seen enough evidence to persuade me – on balance – that a false statement of fact was made or that she was told she could swap the car for a different one with no penalty. And I’m satisfied the agreement signed by Mrs F was clear about the cancellation process.

Arrangement of the hire purchase agreement

I’ve also considered Mrs F’s concern that the agreement wasn’t suitable given what Arnold Clark knew of her circumstances. As I’ve outlined above, I can’t say with certainty what was discussed during the sale – so I’ve considered this on balance. It’s also important to note that while Arnold Clark arranged the agreement, it isn’t a lender – and the decision to supply the car under the agreement was made by a separate entity. I can only comment on Arnold Clark’s actions here. If Mrs F is unhappy with the finance provider’s decision to provide credit, she’d need to raise that issue with them separately.

I’ve seen a copy of the details recorded by Arnold Clark during the sale. These state that Mrs F had been in continuous employment for 13 years. Having reviewed the point-of-sale paperwork and the agreement, there’s no mention that Mrs F’s circumstances could change in the near future.

I can also see that Mrs F was presented with a summary of the key details of the agreement a week before it was signed. So, I’m satisfied Mrs F had a reasonable opportunity to review everything and ensure the agreement was suitable for her before agreeing to it.

I’ve seen the emails between Mrs F and the sales agent following the sale. Mrs F says these emails show that the agent was previously aware that she was at risk of redundancy. Specifically, she says the agent didn’t react to her telling him that she was being made redundant in a way that suggested this was new information – and that he didn’t correct her when she said they’d spoken about it previously.

While I see the point Mrs F seeks to make here, I don’t think this is enough to persuade me that the sales agent was aware that Mrs F was at risk of redundancy. The sales agent doesn’t say anything in any emails to suggest they were aware of this prior to the sale.

So, while I've considered all of the available information I'm not persuaded – on balance – that Arnold Clark knew Mrs F's job was at risk when it arranged the agreement. And Mrs F was given the opportunity to review the terms of the agreement before it was finalised. So, I can't fairly conclude that Arnold Clark made an error when arranging the agreement.

Summary

For the reasons I've explained, based on the information I've seen I haven't concluded that Arnold Clark made an error in arranging the agreement, or that the agreement was misrepresented to Mrs F. So, I don't uphold this complaint or require Arnold Clark to do anything further.

My final decision

My final decision is that I don't uphold Mrs F's complaint about Arnold Clark Automobiles Limited trading as Arnold Clark.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs F to accept or reject my decision before 17 December 2025.

Stephen Billings
Ombudsman