

## **The complaint**

Mr W complains that Hyundai Capital UK Limited trading as Hyundai Finance (Hyundai) mis-sold him a fixed sum loan agreement.

When I refer to what Mr W or Hyundai have said or done, it should also be taken to include things said or done on their behalf.

## **What happened**

In June 2022, Mr W purchased a new car through a fixed sum loan agreement with Hyundai. The cash price of the car was around £31,975 and he paid an advance payment of £5,500. The amount of credit was around £26,475, to be paid over 49 months; with 48 monthly payments of around £418 and a final repayment of around £11,103.

Mr W says he specifically asked for a personal contract purchase (PCP) agreement. He wanted this type of agreement as it allowed him the option to voluntarily terminate once he'd paid 50% of the total amount payable. And it was only when he called to do this, that he was made aware he didn't have the right to voluntarily terminate as he'd entered into a fixed sum loan agreement, not a PCP.

Hyundai said he signed the agreement which clearly stated it was a fixed sum loan agreement, he had the opportunity to review the agreement before proceeding and to raise any issues at point of sale.

Our Investigator reviewed matters and didn't think Mr W's complaint should be upheld. They noted that Mr W did ask for a PCP agreement, but thought the type of agreement was clear on the documentation provided, which he signed to confirm his agreement of the terms.

Mr W didn't agree. He said he was given an agreement he didn't ask for and he didn't know what he was sold wasn't a PCP, which is why he signed it. As no agreement was reached, the case was passed to me to decide.

I issued a provisional decision, setting out my intention to uphold this complaint. I said:

*In considering this complaint I've taken into account 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.*

*Mr W was supplied with a car under a fixed sum loan agreement. This is a regulated consumer credit agreement which means we are able to investigate complaints about it.*

*Under section 56 of the Consumer Credit Act 1974, the finance provider (Hyundai) can be held responsible for what they say and for what is said by a credit broker or a supplier before the consumer takes out the credit agreement. So, I've taken this into account when considering this complaint.*

*Having reviewed the emails between Mr W and the broker, I note he makes it explicitly clear on multiple occasions that he wanted a PCP. Hyundai say the agreement Mr W entered into is a fixed sum loan with guaranteed future payment, which is a personal PCP. They explained this is a flexible form of loan where some of the cost is deferred until the end of the agreement to provide the benefit of lower monthly payments. And Mr W still has the option to either retain, return or renew the car at the end of the agreement, there just isn't the option to voluntary terminate.*

*However, Mr W clearly explained he wanted the option to exit the agreement mid-term and turned down other options presented to him for this reason. The broker sent Mr W a quote, presenting it as a PCP, and I haven't seen that he was informed at any point that there was no option to voluntary terminate the agreement that was presented to him – knowing that this was an important factor in Mr W's decision making. Mr W contacting Hyundai in November 2024 to request voluntary termination further supports he was unaware this wasn't an option.*

*Hyundai say Mr W was provided with the agreement terms and conditions at the point of sale and it was his responsibility to make sure he was happy with all aspects of it before signing it. I asked Hyundai to provide evidence that Mr W was made aware that the agreement didn't have the option of voluntary termination within the documentation provided. Hyundai explained that their agreements with this option include a clause setting out the consumer's right to terminate, and this clause wasn't within Mr W's agreement. Having considered this, I don't think it's reasonable to suggest the absence of a clause ought to have made Mr W reasonably aware that the contract he was presented didn't include something he'd specifically asked for – or that Mr W should've reasonably known that this clause would've been present in a different form of contract he hadn't seen.*

*Additionally, the information provided by Hyundai suggests there was a more suitable contract option to provide Mr W, that would've met the needs he made the broker aware of. Ultimately, I think Mr W made his intention to voluntary terminate the agreement in two to three years clear, so it's reasonable for him to have relied on the broker to have presented him with an agreement that met his needs. And I would've expected the broker to have brought to Mr W's attention any significant features of the agreement that would've influenced his decision making.*

*Based on what I've seen, I'm satisfied Mr W was misled during the sale of his fixed sum loan agreement and he wouldn't have proceeded to enter into the agreement had he been made reasonably aware he wasn't entering into a PCP with the option to voluntary terminate.*

### **Putting things right**

*Having determined the agreement was mis-sold to Mr W, I've next thought about what Hyundai should do to put things right.*

*As I'm satisfied Mr W wouldn't have entered the agreement had he been correctly informed about the type of contract he was entering into, Hyundai should now unwind the agreement and arrange collection of the car at no cost to Mr W. Hyundai should ensure no adverse information is recorded on Mr W's credit file.*

*I've considered that Mr W has had fair use of the car, having travelled around 36,799 miles in it since June 2022. While Mr W has mentioned concerns with the car, such as the range not being as expected, I haven't seen anything that suggests Mr W was paying for a car he was unable to use. The distance he has been able to travel isn't significantly less than the 12,000 miles per year noted on his agreement. So, I think it's fair that Hyundai retain the monthly payments Mr W has paid towards the agreement to reflect fair usage. However,*

*they should refund his deposit with added interest, calculated at 8% simple per year from the date of payment until the date of settlement.*

*Lastly, I've considered that Mr W has been caused distress and inconvenience as a result of being mis-sold a fixed sum loan agreement. I don't doubt the loss of expectation and frustration he would've experienced when he was told he was unable to voluntarily terminate the agreement, or the disappointment that he was unable to acquire an alternative car when he wanted to. I therefore think Hyundai should pay Mr W £200 in recognition of the distress and inconvenience caused.*

## **Responses to my provisional decision**

I invited both parties to respond with any further points or evidence they wanted me to consider before I issued my final decision on this complaint.

Mr W accepted my provisional decision. Hyundai didn't agree and provided additional documentation that was provided to Mr W at point of sale and confirmed he was unable to voluntarily terminate the agreement. In addition, they said:

- Mr W didn't state he wanted a PCP because he intended to voluntarily terminate the agreement.
- It's not guaranteed a PCP would've been available to Mr W.
- The agreement documents clearly indicate he was entering a fixed sum loan agreement.
- Mr W had the opportunity to review the agreement documentation and didn't raise any concerns prior to signing it.

## **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 those set out in my provisional decision.

It's important to explain I've read and taken into account all of the information provided by both parties, in reaching my decision. If I've not reflected something that's been said it's not because I didn't see it, it's because I didn't deem it relevant to the crux of the complaint. This isn't intended as a discourtesy to either party, but merely to reflect my informal role in deciding what a reasonable outcome is. Where evidence has been incomplete or contradictory, I've reached my view on the balance of probabilities – what I think is most likely to have happened given the available evidence and wider circumstances.

Within its work on motor finance, the Financial Conduct Authority describes a PCP as a form of hire purchase. Here, the agreement Mr W entered into was a fixed sum loan agreement – not a hire purchase agreement. A fixed sum loan agreement is distinctly different to a hire purchase agreement, as ownership of the car passes to the consumer at the time the agreement is entered into. There usually isn't an option to return the car at the end of the agreement. However, in Mr W's case, there was a separate sales agency agreement which provided this option. A key difference between a fixed sum loan and a PCP/hire purchase agreement is that there is no option to voluntarily terminate the agreement.

I've considered that Mr W didn't specifically refer to voluntary termination during the sales process, but he did make it clear he wanted a PCP. Having reviewed the emails between Mr W and the broker, it's my view that he demonstrated an existing knowledge of PCP

agreements and he has since confirmed he had two prior PCPs with other lenders. Mr W therefore understood how PCPs work, and much of the documentation he was provided in this case appears to work in a very similar way. The key features documentation provided to him also referred to a PCP agreement. I therefore don't find it unreasonable that Mr W may not have studied the documentation in thorough detail, to the extent of looking for significant differences to his previous PCP agreements that he wasn't expecting to be there.

It's my view that it was reasonable for Mr W to have relied on the broker to bring to his attention the key features of the agreement, such as the type of agreement being presented to him and the difference between said agreement and the PCP Mr W had specifically asked for. Mr W made it reasonably clear to the broker that he intended to exit the agreement mid-term. There are different ways to do this other than voluntary termination, but I find Mr W's right to voluntarily terminate a significant difference between a PCP agreement and the fixed sum loan agreement Mr W was sold – and something that should've reasonably been brought to his attention during the brokering of the agreement.

Mr W declined a hire agreement, having considered the options available to him and costs involved at the point he anticipated wanting to exit the agreement. I'm therefore satisfied that, on balance, it's more likely than not had Mr W been told this was a fixed sum loan agreement, and the key differences between such agreement and a PCP, he wouldn't have entered into it.

Overall, Mr W asked for a PCP and the broker presented him a quote for a PCP. The key features document was labelled as a PCP and the documentation appeared to work the same way as one. I haven't seen the broker made Mr W aware the finance agreement presented to him was a fixed sum loan agreement, or how this differed from a PCP as I'd expect. And I'm satisfied that if they had, Mr W wouldn't have entered into it. I therefore find the agreement was mis-sold, and Hyundai should now settle the complaint in accordance with what I've set out within my provisional decision.

### **My final decision**

For the reasons I've explained, my final decision is that I uphold Mr W's complaint about Hyundai Capital UK Limited trading as Hyundai Finance and direct them to:

- Unwind the agreement and collect the car at no cost to Mr W.
- Ensure no adverse information is recorded on Mr W's credit file.
- Refund the deposit Mr W paid.
- Pay 8% simple yearly interest on the deposit refund from the date of payment until the date of settlement†.
- Pay Mr W £200 compensation for the distress and inconvenience caused.

†If Hyundai considers that tax should be deducted from the interest element of my award, they should provide Mr W with a certificate showing how much they have taken off so he can reclaim that amount, if he is eligible to do so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 22 December 2025.

Nicola Bastin  
**Ombudsman**