

## The complaint

K complains that the hire agreement it entered to hire a van from Bibby Leasing Limited (“Bibby”) was misrepresented to it. It said the type of agreement was unclear. It also said that Bibby didn’t offer any support when informed that K was experiencing financial hardship, and the early settlement figure it had been provided with was unfair.

K has been represented throughout this complaint by Mr J and Miss S, but for ease of reading I’ll refer to K primarily within this decision.

## What happened

Both parties are familiar with the background of this complaint so I will only summarise what happened briefly here.

K bought a van from a dealer in October 2020, to help with its business. In December 2020, K was approached by a credit broker (SA) and asked if it wanted any help with any refinancing. K was given the option to sell the van and hire it back under a hire agreement with Bibby, and in doing so it would be paid a cash amount. The hire agreement was for a minimum term of 60 months, with an advance payment of £1,620 and 60 monthly payments of £325.27.

In April 2025 K complained to Bibby. It said that the agreement had been misrepresented and K had never been made aware it wouldn’t own the van at the end of the agreement. It also said Bibby had failed to deal with K’s notification of financial hardship in July 2024, when it notified Bibby that the cambelt had snapped on the van and it was going to be permanently off the road. It also complained that an early settlement figure provided by Bibby seemed unfair.

Bibby responded to K’s complaint. They said that the agreement had been provided to K by SA and signed by K’s representatives. Bibby said all applicable charges were clearly explained on the agreement and in the welcome letter sent to K. In relation to K’s financial hardship in July 2024, Bibby explained that they didn’t think K’s email to SA made any comment about experiencing financial hardship and, if it had done, Bibby would have offered support immediately. Following K’s complaint, in which it formally notified Bibby of financial hardship, Bibby offered to accept a much-reduced early settlement figure of £500 and to arrange for collection of the van if the settlement figure was accepted. They said any previous early settlement figures were accurate at the time of calculation. They didn’t uphold K’s complaint.

K brought the complaint to our service. Our investigator didn’t uphold it. She said she couldn’t consider anything that SA had said or done, but she was persuaded the agreement was clear in that it was a hire agreement and that K wouldn’t own the van at the end of it. She didn’t think K had inferred it was suffering from financial hardship in its communication with SA in July 2024, and she didn’t think Bibby had any liability for the faults now experienced with the van. She said she thought Bibby’s reduced early settlement figure showed forbearance and was giving K’s financial situation due consideration now they were aware K was experiencing financial hardship.

K didn't accept. It maintained that the agreement and the explanation of it was unclear from the outset and it had been misrepresented. It also said some of the paperwork seemed to have been produced after the original agreement had been signed, and there was some concern that the advance payment, or deposit as it was shown on the sales invoice, hadn't been paid by K. K felt Bibby had failed in its regulatory duty.

As K didn't agree, the complaint has 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.

When considering what is fair and reasonable, I'm required to take into account: relevant law and regulations, relevant regulatory rules, guidance and standards and codes of practice.

Both parties have provided a lot of information on this case. I'd like to reassure them both that I've read and considered the evidence submitted by both, but I'll comment on what I believe is most relevant. If I don't comment on a specific issue, it isn't because I haven't considered it, but because I've decided that I don't need to do so to provide a fair outcome. This is not intended as a discourtesy but is the informal way that our service works to resolve disputes.

I think it's worth explaining what I will be considering in this decision. I want to set out that I'm primarily required to consider what happened up to when Bibby sent their final response letter as the events preceding this relate to what they have had the chance to consider. Things moved on from then, so I've tried to be as pragmatic as possible when dealing with this complaint when thinking about what parts I can decide. But I need to be able to draw a line under the complaint with my decision because it will mark the end of our process. If there are further complaints about events that occurred after the final response letter, or additional points that K has raised that are not clearly included within this decision, they would have to be taken up separately.

As the agreement entered by K is a regulated consumer credit agreement this service is able to consider complaints relating to it.

Our investigator has already provided a detailed opinion on K's complaint, as well as detailed responses to K's considerable post-opinion communications – and within her opinion and responses she has explained what our service is able to consider, as well as her thoughts on the outcome of the case. I agree with our investigator's opinion in this case, for the same reasons as already explained to K, so I don't consider I need to address the complaint in as much detail. Instead I'll set out what I think are the key considerations for me to make a decision. Our powers allow me to do this.

Section 56 (s56) of the Consumer Credit Act 1974 states that the finance provider are responsible for the antecedent negotiations of their agents when arranging certain types of agreements. In other words, Bibby would be responsible for anything SA had said or done prior to K entering certain agreements. However, s56 doesn't cover hire agreements, so the antecedent negotiations would have had to take place with Bibby for there to be a misrepresentation. In K's case, as the negotiations for the sale and subsequent hire of the van were with SA and not with the provider of the hire agreement, Bibby, s56 doesn't apply.

Unfortunately, this means that many of K's complaint points can't be considered against Bibby. All the concerns regarding mis-sale and any misleading information K believes it

received from SA in the process of setting up the agreement would need to be raised as a complaint against SA. I'm satisfied our investigator has already explained that to K, but I'm reconfirming it here for the avoidance of doubt.

What I am able to consider is whether Bibby acted reasonably with the information they received from SA. And I'm satisfied they did, and the information provided by Bibby to K was clear. The agreement clearly states that it is a regulated hire agreement, and any applicable fees and charges are explained within the agreement. K's representatives have initialled every page of the agreement, confirming they have read and understood it, and have signed to accept it. In the box containing their signatures, it clearly explains that, under this agreement the goods will not become K's property. The terms and conditions also state that the van is being hired to K under the agreement.

While I appreciate K's concern that the agreement has been explained in different ways, such as a minimum term hire agreement, a regulated hire agreement and a sale and leaseback agreement, during its lifespan, I'm satisfied K should have been reasonably aware that the agreement it was entering was to hire the van for a minimum term, and that it would never become the owner of the van under the agreement. If K was unsure of what it was entering prior to signing the agreement, it would have been reasonable for it to have taken some advice prior to going ahead with it. As such, I'm satisfied the hire agreement has been made clear to K. I won't be asking Bibby to do anything in this regard.

In July 2024, K got in touch with SA to explain the cambelt had snapped and the van was permanently off the road. It asked SA if Bibby had any liability under the agreement as K was paying for a van that could no longer be driven.

Whilst I understand that K believes this was an indication to Bibby that it was experiencing financial hardship, it was an email to SA rather than Bibby, and I don't agree it can be inferred from its email to SA that this is the case. I'm more satisfied that Bibby understood the email to be a request from K about how it could look to exit the agreement, and Bibby supplied K with an early settlement figure following receipt of the email. I'm satisfied that was a reasonable thing to do as the van was going to be off the road permanently, and there wasn't a need for Bibby at that point to infer that K was suffering financial difficulties or for them to offer any other form of support.

Bibby are the supplier of the goods under this type of agreement, and the agreement has an implied term that the goods will be of satisfactory quality at the point of supply. However, the cambelt snapped after the van had been in K's possession for over three years, and K had travelled approximately 50,000 miles in it at that time. The van had covered approximately 120,000 miles in total when the cambelt snapped. In this case, it would be for K to show that the problem with the cambelt had been present or developing at the point of supply. It hasn't done that, and considering the age of the van and the mileage it had covered at the time of the breakdown, I'm more persuaded than not that the cambelt has failed as a result of general wear and tear. In cases like this, and under the terms of the agreement, it's for K to ensure the van is maintained and kept roadworthy for the duration of the agreement. Bibby weren't required to offer any assistance to repair the van in July 2024, so I can't ask them to do anything further in that regard.

When K did inform Bibby of its financial difficulties in April 2025, Bibby offered to accept a reduced early settlement figure and offered to arrange to have the van collected if the settlement figure was accepted by K. Bibby have a responsibility to treat their customers with forbearance and give due consideration to their circumstances when they are made aware of financial difficulties, and I'm satisfied that by offering K a reduced early settlement amount, considerably less than the early settlement amount should have been at that stage, and by offering to arrange to collect the van, Bibby have paid due attention to K's financial

circumstances and tried to help it. Bibby aren't obliged to cancel the agreement with nothing further for K to pay, and they aren't required to refund K for any payments made while the van has been off the road. This is set out in the terms of the agreement, agreed to by K.

Bibby also confirmed to K, after our investigator had explained her findings to both parties, that the settlement figure was still available for K to accept. Should K now want to accept that figure, it will need to speak to Bibby to make sure the offer is still available. As I'm not persuaded Bibby have acted unreasonably towards K in the circumstances of this case, I'm not directing them to make the offer available.

K has raised more concerns to our investigator in relation to the advance payment made at the start of the agreement, the VAT that has been applied and the adherence to regulatory procedures by Bibby. As Bibby haven't had the opportunity to review those concerns, K will need to raise any new concerns with them initially and allow them to respond. Following any response from Bibby, K might be able to bring any new complaint to our service. I should, however, point out that we are not the industry regulator. That's the Financial Conduct Authority (FCA). K can report its concerns about Bibby's conduct to the FCA but it won't look into its individual complaint.

I know this decision will come as a disappointment to K and its representatives, and the van remains off the road and facing significant outlay to repair. But I'm satisfied Bibby have treated K fairly when dealing with its complaint so I won't be asking them to do more.

I urge K to speak to Bibby if it now wants to proceed with a settlement. Alternatively, K is able to reject this decision if it believes it can achieve a favourable outcome by alternative means, such as through the courts.

### **My final decision**

For the reasons above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask K to accept or reject my decision before 29 April 2026.

Kevin Parmenter  
**Ombudsman**