

Complaint

Mr E complains that Decidebloom Limited (trading as “Stoneacre” Motor Group) unfairly charged him for a number of products which he didn’t agree to.

Mr E is being represented in his complaint. For ease of reference, I’ll refer to Mr E’s representative as the representative in this final decision.

Background

In March 2019, Mr E purchased a used car from Stoneacre. The purchase price for the vehicle itself was £6,995.00. Mr E didn’t pay a deposit and Stoneacre agreed to arrange finance in order to facilitate this purchase.

Mr E has also complained that Stoneacre unfairly failed to disclose that it would receive commission from his lender as a result of arranging his finance. But we’ve already explained that we’re looking at that matter separately and this decision is only considering whether Stoneacre acted fairly and reasonably in the course of selling Mr E’s additional products.

In October 2021 and November 2021, after Mr E was told he had an outstanding balance to pay, in order to settle the loan for his extras, before he could voluntarily terminate his agreement, Mr E complained that he was mis-sold his extras. In essence, Mr E said that he didn’t know about the extras and it was unfair that he had to pay the full balance for them in order to voluntarily terminate his agreement.

Stoneacre didn’t think that it had done anything wrong or that it had acted unfairly and therefore didn’t uphold Mr E’s complaint. Mr E remained dissatisfied and referred his complaint to our service. Mr E’s complaint was considered by one of our investigators.

The investigator didn’t think that Stoneacre had done anything wrong or treated Mr E unfairly (as explained, this did not include any findings in relation to the commission). So she didn’t recommend that Mr E’s complaint should be upheld.

The representative, on Mr E’s behalf, disagreed with our investigator and asked for the complaint to be passed to an ombudsman for a final decision.

My findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

Having carefully considered everything, I’ve decided not to uphold Mr E’s complaint. I’ll explain why in a little more detail.

The first thing me to say is that Mr E was sold Paint Protection, a Service Plan, a 5 year guarantee and a Guaranteed Asset Protection (“GAP”) policy. The representative says that Mr E didn’t know about any of these extras. I’ve thought about what the representative has said.

However, I've looked at the paperwork from the time that Mr E was sold his vehicle. As well as setting out that the vehicle Mr E selected had a cash price of £6,995.00, Mr E's vehicle order form lists that he is being sold £1,733.33 of extras comprising of Paint Protection at £415.83; a Service Plan at £455.83 and a 5 year warranty at £861.67. These purchases also attracted VAT at 20% (£346.67) which meant that the total amount Mr E had to pay for his extras was £2,080.00.

The order form goes on to confirm that the total value of Mr E's purchase is £9,075.00 (£6,995.00 for the vehicle and £2,080.00 for the extras) and that the total amount is being financed by the finance company he is entering into a hire-purchase agreement with. This order form has been signed by Mr E as well as a representative of the motor dealer Mr E was purchasing his vehicle from.

I've also considered a copy of Mr E's hire-purchase agreement. In the section entitled '*GOODS AND SERVICES*' it sets out that as well as being provided with finance for his vehicle, Mr E is also being provided with finance for one or more added value products. The agreement then goes on to breakdown that Mr E was being lent £6,995.00 for his vehicle and £2,080.00 for his add on products meaning that he was borrowing £9,075.00 in total. This matches the amount on the vehicle order form for Mr E's car.

In the section entitled '*YOUR PAYMENTS*' the agreement also sets out that while Mr E would have to make total monthly payments of £226.86, £174.88 of this is towards the loan for the vehicle and the remaining £52 is towards the loan for the extras. This hire-purchase agreement was electronically signed by Mr E.

I've also been provided with the notes of contact that Stoneacre has had with Mr E over the years. This shows that Mr E had a discussion with a representative of the motor dealer five days after his vehicle had already been ordered and five days after Mr E signed his hire-purchase agreement and this had been agreed. The notes indicate that Mr E was sold GAP during this call.

As this was after Mr E's agreement had already been signed, Mr E paid a separate monthly premium of £19.17 directly to the insurance provider for this policy. The notes also show that Mr E was sent a pack containing details of the GAP policy around this time too. I accept that it's possible that Stoneacre's notes may not accurately reflect everything that might have been discussed. But given Mr E does appear to have been making a second payment directly to the insurer, I do find the notes provided to be persuasive.

As this sale took place some time ago and Mr E's focus is most likely to have been on the car he was purchasing, I accept that he may no longer recall the precise details of what was discussed, or that he agreed to purchase extras he was charged for. However, given the amount of documentation Mr E was provided with, which set out the details of his additional products - most of which he signed at the time, I simply cannot reasonably conclude that Mr E wasn't aware that he was purchasing these additional products at this time.

The representative argues that a finding on this basis does not take into account that Mr E was led to believe that purchasing these extras were compulsory and that he was told taking these items would assist his finance application being approved. But I have to consider what the representative is now saying in the context that this directly contradicts what Mr E has said about not knowing about and never agreeing to these products in the first place.

Furthermore, the fact that Mr E appears to have agreed to purchase GAP *after* his application for finance had already been approved, simply doesn't support the argument that Mr E agreed to these products because he was led to believe that doing so would improve

his chances of being accepted for finance. So I find the representative's arguments on this unpersuasive.

Finally I've considered the representative's argument that a *"HPI/lease type agreement is supposed to allow a customer the option to return the vehicle at any point"*. In the first instance, it is unclear to me what the representative means by HPI/lease type agreement. In any event and for the sake of clarity, I wish to make it clear that Mr E entered into a hire-purchase agreement.

It may help for me to explain that Mr E's hire-purchase agreement did not allow him to return his vehicle at any point. Indeed, I am not aware of any type of car finance agreement that allows a purchaser to simply return a vehicle in such a way irrespective of the circumstances and guarantee that this can be done without penalty in the way that the representative appears to be suggesting. The type of arrangement the representative has described is more akin to a rent to own agreement, which is typically used by some retailers when selling household goods.

That said, the hire-purchase element of Mr E's agreement did allow him to 'voluntary terminate' his agreement and return his vehicle as long as he paid half of the total amount due to be paid for it. In effect, this meant that Mr E was able to return his vehicle as long as he paid half of the purchase price of £6,995.00 as well as half of the total charge for credit of £3,805.00 – so £5400.14 in total. However, as the loan for the extras Mr E purchased was separate this amount would need to be paid in full.

The representative has said that Mr E wasn't made aware that he would have to pay the full amount of the extras in the event that he sought to voluntarily terminate the agreement. In order to consider these representations, I have returned to Mr E's hire-purchase agreement.

The section relating to termination relates to what Mr E needs to do if he wishes to return the goods. For example, Mr E is informed that should he wish to terminate the agreement he should return the goods and that he has to have taken reasonable care of the goods. The *'GOODS AND SERVICES'* section of Mr E's agreement also describes the *'Goods'* by the make, model and registration number of the vehicle Mr E purchased. And this is set out separately from the *'Insurance/Warranty/GAP/Other Loan'* section.

I've also already explained that the agreement sets out separate loans as well as loan amounts for the goods Mr E purchased and the Insurance/Warranty/GAP/Other Loan. In the section headed *'IMPORTANT'* it is also stated that the clause headed *'Separate Agreements'* (of the terms and conditions of the agreement) will apply to any items purchased with the Insurance/Warranty/GAP/Other Loan portion of the funds.

And the Separate Agreements clause states that the hire-purchase goods loan and the other loan are separate legal contracts. It goes on to state that the payments made towards the Insurance/Warranty/GAP/Other Loan do not count towards the payment of the hire-purchase or goods loan. Finally, this section of the agreement also says that the borrower will still be liable for the full balance due on the Insurance/Warranty/GAP/Other Loan even if they exercise the right to voluntarily terminate the goods part of the agreement.

So, while I accept that this case isn't against Mr E's finance provider, it doesn't seem to be incorrect that Mr E has been asked to fully settle the outstanding balance on the Insurance/Warranty/GAP/Other Loan, when voluntarily terminating the agreement for his vehicle.

The representative appears to accept that this is what the agreement requires. However, it says that this matter should have been brought to Mr E's attention. I've thought about what

the representative has said. But I don't think that a general purchaser would necessarily look to end a hire-purchase agreement in this way. So I'm not persuaded that this was a significant term – especially as there's no indication that Mr E suggested that he wanted to settle his agreement early.

More importantly, even if Mr E did say his intention was to settle the agreement early, it doesn't necessarily follow that Mr E wasn't told about the effect of the additional loan just because the representative says he wasn't. I don't know what Mr E was told at the time he signed his agreement.

It's possible that Mr E was told that he was taking a separate loan for his extras as well as the implications of this. And I have to consider what the representative now says about Mr E not having been told about this, in the context that the representative also initially said that Mr E wasn't told anything at all about the extras in the first place, which for the reasons I've already explained, I've not been persuaded that this is the case.

Given the contradictory nature of the arguments that have been raised, it's difficult for me to place much weight on what the representative says Mr E was, or wasn't told, at the time he was sold his car and entered into his agreement. And in circumstances where the representations I cannot place much weight on effectively argue that Mr E wasn't told about information that was, in any event, relatively clearly set out in his agreement, I'm not persuaded that Stoneacre failed to provide Mr E with information he needed to about the loan for his extras.

So overall and having carefully considered everything the representative, on Mr E's behalf has said, I don't think that Stoneacre acted unfairly or unreasonably when selling him the extras for his vehicle. And I'm not upholding this complaint. I appreciate that this will be very disappointing for Mr E and his representative. But I hope they'll understand the reasons for my decision and that they'll at least feel their concerns have been listened to.

My final decision

My final decision is that I'm not upholding Mr E's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 25 April 2024.

Jeshen Narayanan
Ombudsman