

## The complaint

Mr D has complained that Motonet.com Limited mis-brokered a hire purchase agreement that was to be used to acquire a car.

## What happened

On 26 November 2022 Mr D visited Motonet to look at cars it had for sale. He says he saw a car he liked and discussed it with Motonet. He says Motonet told him he'd need to pay £100 to check his credit file. Mr D says he paid this but needed to leave for work so didn't complete the deal. Mr D says he returned on the 28 November 2022 to say he'd decided not to proceed. He says Motonet told him the hire purchase agreement had already been signed so it was too late to cancel. Mr D says he never signed the agreement. So he complained and contacted his bank to cancel the associated direct debit. He says he also complained to the finance company. He requested everything was unwound.

Motonet said Mr D visited it looking to acquire a car and that it gave him a quote for finance. It said Mr D wanted to proceed and it took a £100 holding deposit from him and that he told it he was going to put £1,700 towards the deal. It said it doesn't charge customers to check their credit file. Motonet said it put the application through and went through things with Mr D. It said Mr D e-signed the agreement. And as part of this process Mr D needed to verify his bank details and that he was required to enter a unique code that was sent by the finance company to his email.

Mr D referred his complaint to our service. Motonet reiterated it didn't think it had acted unfairly. But it highlighted three options that were given to Mr D:

- Arrange to cancel the agreement for him but a deduction of £500 would be made in relation to administration and preparation of the car.
- Mr D to reduce his deposit and/or part exchange the car and it would arrange to amend the agreement.
- Mr D to consider an alternative car if he'd changed his mind.

Our investigator looked into things and said she thought Motonet should arrange for the agreement to be cancelled and refund Mr D £100. She says she thought Mr D did want to go ahead initially but she thought Mr D should have been able to withdraw from the agreement within 14 days. She didn't think Motonet should be able to retain £500 and she said Mr D changed his mind within two days.

Motonet didn't agree. But it highlighted the options it gave to Mr D which were still available.

I issued a provisional decision that said:

*I thought it'd first be helpful to set out what I can consider against Motonet. As well as being a car dealer, Motonet is a credit broker. Our service is able to consider complaints about Motonet brokering certain agreements because credit broking is a regulated activity. This is a financial service that it carries out. The Financial Ombudsman was set up to deal with*

*complaints about the provision of financial services. But that doesn't mean I can consider complaints about everything Motonet does as a car dealer.*

*Like our investigator thought, I agree that it looks like Mr D intended to apply for an agreement to acquire the car. It's not in dispute he visited Motonet on 26 November 2022 and I've seen a receipt for the £100 payment he made. The receipt I've been provided is attached to a declaration Motonet says Mr D signed that says Mr D agrees to enter into a contract to purchase the car. It says the payment was non-refundable if he withdrew and that he'd be liable for any expense incurred by Motonet in preparing the car for delivery and any other losses as a result of the withdrawal.*

*I'm mindful I've seen emails sent to Mr D that tell him the agreement was successfully applied for and signed on 26 November 2022. I'm also told the only way the agreement can be e-signed is by using a unique code that was sent to Mr D. And the email address the finance company used is the same email address we hold for Mr D. So I think that's the most likely thing to have happened here.*

*The finance company has a copy of Mr D's driving licence. And his bank details were used to set up a direct debit, which he later cancelled. I don't think the finance company would have this information if Mr D didn't seek to apply for finance.*

*Taking all this into account, on balance, I think Mr D likely did apply and sign the agreement on 26 November 2022. And I don't think I've seen enough to say that Motonet mis-brokered it.*

*Our investigator said Mr D had 14 days to withdraw from the agreement. While I agree Mr D was able to withdraw, that's not the same thing as cancelling the agreement. Mr D wanted to cancel the agreement and not acquire the car. But by withdrawing from the finance agreement, he would have had to buy the car by other means. So I don't think withdrawing from the agreement helps Mr D in this case, or was what he wanted to do.*

*I'm conscious Motonet has given Mr D a few options to resolve things. But I think these options were put to Mr D by Motonet acting in its capacity as a car dealer. In any event, I don't think I've seen enough to say Motonet acted unfairly in its capacity as a credit broker. So I don't find I have the grounds to uphold the complaint on that basis. I'll leave it to Mr D to decide if he wishes to contact Motonet about the options it gave him. I think this would be sensible. But I'm not intending to make any directions.*

*Finally, I'm mindful the finance agreement hasn't been paid. Once Mr D decides what he wants to do, if he's unhappy with how the finance company has treated him, that's a separate matter, but it might be something our service can consider for him if he ends up raising a complaint.*

*Motonet didn't respond, but Mr D did. In summary, he said he'd never given consent for Motonet to apply for a credit agreement. He asked for CCTV evidence to show he hadn't filled in paperwork or electronically signed an agreement.*

*Mr D said Motonet must have signed the agreement on his behalf. He says the finance company told him the deal would have to be cancelled by Motonet. Mr D said he now realises he had received emails from the finance company, but he said Motonet told him to ignore them. Mr D said he didn't open the email containing the agreement until recently.*

### **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 Mr D for his response. I do sympathise with the situation because he doesn't want the car. But even though I'm sympathetic, in this complaint, given what the Financial Ombudsman has the power to do, my key role is to consider how Motonet brokered the finance agreement. This is the financial service it offers. Based on the evidence submitted, I've not seen enough to demonstrate it acted unfairly when doing that.

Mr D signed a document saying he wanted to acquire the car. He submitted his driving licence and supplied information for the application. I'm told the only way Mr D would have been able to sign the finance agreement was by inputting a unique code that was sent to his email address – not Motonet's. So as I've explained, I think that's the most likely thing to have happened. We already asked Motonet for its CCTV recordings, but they are only stored for seven days. Even without that, I think I have enough evidence to reach a conclusion. While I can understand why Mr D thinks the deal should have been ended (or never set up in the first place), for the reasons given, I haven't seen enough to conclude, on balance, that Motonet acted unfairly when brokering the agreement.

Mr D may wish to contact Motonet about his options. And as I explained, if he's unhappy with how the finance company has treated him, it's a separate matter, but it might be something our service is able to consider for him. I don't, however, have the grounds to direct Motonet to take any other action.

### **My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 9 November 2023.

Simon Wingfield  
**Ombudsman**