

## **The complaint**

Mr D complains about the way 247 Money Group Limited has dealt with him in respect of a hire-purchase agreement used to acquire a car.

## **What happened**

In January 2022 Mr D entered into a 52-month hire-purchase agreement with 247 Money for a used car. The car was first registered in May 2011 and had an odometer reading of around 60,000 miles. It was priced at just under £9,000. The total amount payable under the hire-purchase agreement was shown as £16,249.48.

A couple of weeks after taking delivery Mr D contacted 247 Money to say that the car was losing power when driven at more than 60 miles per hour. He says the dealer initially fixed the problem, but that it later recurred and that when he sought to exercise his right to cancel, 247 Money wouldn't allow him to do so. Mr D also raised concerns over tyre scuffs, a roof problem and recall notices he'd received from the car manufacturer.

Mr D describes that he spent many hours in communication with 247 Money, causing him stress and anxiety. He further believes the lender breached data protection regulations in its calls to him. He says that 247 Money continued to chase him for payment after it collected the car from him, and that it unfairly recorded adverse payment information on his credit file.

247 Money says that when Mr D first raised the loss of power issue it took steps to assist by providing him with financial support towards the cost of alternative transport and liaised with the dealer on his behalf to try to arrange the repair. It says that the tyre scuffs and recall notices weren't issues amounting to a breach of the obligation to provide a vehicle that was of satisfactory quality. It has no record of a second power failure, and says that while Mr D mentioned the problem with the car roof, he didn't provide any evidence to substantiate the problem in response to its request.

In respect of any outstanding issues, 247 Money told Mr D it wasn't willing to accept his rejection of the car without supporting evidence. It offered him £150 towards the cost of any repair or to offset against the cost of an inspection report to support his claim. It says Mr D declined this proposal. As Mr D had stopped paying, 247 Money recorded this information on his credit file and took steps to recover the vehicle, holding him liable for the remaining balance less the resale value of the car. In respect of Mr D's concerns over the telephone numbers used to call him, 247 Money said it found nothing to indicate it had breached data protection regulations.

Our investigator wasn't persuaded that, given the car's age and mileage, the repairs undertaken indicated it wasn't of satisfactory quality when supplied to Mr D. Those repairs had been carried out at no cost to Mr D. In the investigator's view the evidence of further problems wasn't enough to support a finding that the car was not of satisfactory quality.

In addition, the investigator was satisfied that 247 Money had defaulted Mr D's account due to arrears, following the appropriate default notice being sent to him. He didn't consider 247 Money had been wrong to terminate the agreement or take possession of the car. He further

concluded that there was no persuasive evidence of any breach of data protection regulations or that Mr D had been caused any material loss or other impact even if the calls had been made from mobile numbers.

The investigator acknowledged what Mr D had said about the impact the matter had on his mental health and offered to provide details of support organisations. But in terms of Mr D's dispute with 247 Money, the investigator didn't recommend that it take any further action.

Mr D didn't accept the investigator's assessment and asked for this review.

### **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 can see from my review of the correspondence between Mr D and 247 Money – and his correspondence with our service – that the situation has caused him to feel distressed and anxious. I have empathy with him over this, as anyone would. But I'm afraid I am going to disappoint him once again when I say that I've reached a similar conclusion to our investigator, and for much the same reasons as have previously been explained.

Due to the provisions of the Consumer Rights Act 2015 ("CRA"), the agreement between 247 Money and Mr D is to be read as including a term that the car would be of satisfactory quality. That means the quality a reasonable person would expect in the circumstances – taking into account, for example, the car's age, price and mileage.

When he took delivery of it, Mr D's car was already over ten years old, and while its mileage was perhaps below average for its age, its price was significantly lower than a similar car would have cost new. I think it's reasonable to expect that such a car might need some repairs during the course of the hire-purchase agreement – not because of any inherent fault but due to the general wear and tear that happens to mechanical parts. The issue with the car roof and the tyre scuffs would likely fall into that category.

I take a similar view in respect of the vehicle recall notices. I've no reason to think that these would provide Mr D with a valid claim in breach of contract. It is, unfortunately, common enough in the motor industry for manufacturers to issue such notices from time to time. According to the Driver & Vehicle Standards Agency, any outstanding recall should be fixed by the dealer prior to selling a car to a consumer. But here, the recall notices weren't issued until after Mr D acquired the car. As such, I think it's likely they'd be considered one of the many inconveniences that go hand in glove with running a car.

By the time Mr D acquired the car, it had travelled some 60,000 miles over ten years. Whilst many cars of that age and mileage will not develop serious faults, I don't think I can safely assume that this car was not of satisfactory quality simply because it had a problem with the power at that stage of its life. Even if this was the case, it seems Mr D was looking to have the problem investigated at that point, and steps were taken to try to rectify the loss of power, at no cost to Mr D.

While Mr D says the problem recurred after the car had been in the garage, I've not seen anything to support that position. His correspondence with 247 Money doesn't show that he asked anyone – a garage or vehicle inspection service, for example – to look at the car. In the absence of such corroborative evidence I can't reasonably find that there's enough to support Mr D's claim that the car was not of satisfactory quality such that he would be able to exercise the cancellation provisions of the CRA.

I accept, of course, that this wasn't Mr D's view, and it's this belief that I think has led to some of the subsequent issues he has raised. Mr D's firm belief that he was entitled to cancel and return the car is evident throughout his correspondence with 247 Money, notwithstanding the latter's explanation of why it wasn't willing to accept cancellation.

From what I can see, Mr D took the view that the collection of the car meant he had nothing further to pay 247 Money. Regrettably, I don't think that I can agree with him on this point. 247 Money took possession of the car because Mr D had stopped paying, rather than because it accepted he was entitled to cancel. Before it did so, it issued him with default and termination notices. Noting the arrears that had developed on the account due to non-payment, 247 Money doesn't need to amend or remove this record from Mr D's credit file.

As such, the termination provisions of the hire-purchase agreement (section 5.2 of the agreement terms and conditions) mean that Mr D remains liable to repay the total amount payable under the hire-purchase agreement, less any applicable interest rebate and the resale value. While I recognise that leaves Mr D with a financial burden even after the car was collected, I don't think there's any basis on which I can properly disregard the position clearly set out in the contract and to which he agreed at inception.

I am conscious that Mr D has made a point of questioning the apparent use of mobile phone numbers to call him, which he asserts as a breach of data protection regulation. Although this doesn't directly impact on his claim about the quality of the car, there are some aspects of smartphone or other mobile device use that can make them subject to security compromise. So I can see why it's important to Mr D to feel secure in this respect.

The use of mobile telephone numbers to call consumers isn't prohibited by data protection regulation. And 247 Money has said it did not use a personal mobile phone to call Mr D; rather, that it uses system generated numbers. I haven't seen anything that leads me to think Mr D was called from a mobile device that put his personal data at risk of compromise. I hope this at least gives him some reassurance.

### **My final decision**

My final decision is that I do not require 247 Money Group Limited to take any further steps to resolve Mr D's complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 30 November 2023.

Niall Taylor  
**Ombudsman**