

The complaint

Mr P has complained about the way Marsh Finance Limited dealt with him in relation to a hire purchase agreement he had with it.

What happened

Mr P tells us he acquired a car under a hire purchase agreement with Marsh Finance in 2016 and in 2018 he was in a serious car accident. An insurance company made a payment towards the hire purchase agreement but there were still a few hundred pounds outstanding. Mr P says he didn't know about this at the time. He also says he struggles with his mental health and finds it difficult to read and understand complex things. Mr P doesn't think Marsh Finance has acted fairly to accommodate his needs.

Mr P complained to Marsh Finance in December 2022 about how it dealt with him. He's unhappy it decided to undertake legal proceedings to recover the debt. He says he would have made attempts to pay it off if Marsh Finance had acted appropriately and says he let Marsh Finance know about his vulnerabilities in 2021. He says the impact of his vulnerabilities was that he was unable to assess and fill out any forms. He says he needed appropriate support.

Off the back of the legal proceedings, Mr P has complained the debt has increased. He says Marsh Finance had the opportunity to arrange a specialist team to speak to him. He says Marsh Finance obtained a judgment against him. Mr P says he's been signed off work and he's unhappy Marsh Finance has been trying to contact him on his house phone instead of his mobile when he'd asked it not to.

Marsh Finance sent a final response letter to Mr P's complaint in January 2023. In summary it said it had no record of Mr P contacting it in 2021 about his vulnerabilities. But it said it would mark them on its record. It requested Mr P contact its litigation team to discuss the next steps in relation to the account.

Mr P referred his complaint to our service. One of our investigators looked into things but thought Marsh Finance had broadly acted fairly. She noted Marsh Finance had made several attempts to contact Mr P by calls, texts and emails. She said she could see Mr P told Marsh Finance in 2019 that he was under physical and mental strain and that he asked it to write to him instead. She noted Mr P said he was expecting compensation which he'd use to pay the outstanding balance. So she thought Mr P was aware of the amount outstanding by July 2019 at the latest. She thought Marsh Finance acted fairly by suspending contact with Mr P for a week after it was made aware of the impact on his health.

Our investigator noted Marsh Finance had written to Mr P asking him to contact it to discuss the remaining balance. And as it didn't receive a response, it tried other contact methods which she didn't think was unfair. Our investigator noted Marsh Finance had waited until October 2021 to pass the debt to its legal department. She thought Marsh Finance had given Mr P enough of an opportunity to resolve things.

Our investigator also noted Marsh Finance put the account on hold again in October 2021 when Mr P told it he was going to refer a complaint to the Financial Ombudsman. She couldn't see he referred a complaint at the time but she thought Marsh Finance had responded accordingly.

Our investigator noted Mr P had offered Marsh Finance £50 a month in mid-2022 but it wanted to go through his income and expenditure. She said Marsh Finance's notes indicated Mr P only wanted to go through his income and expenditure if it was for court purposes. However, it looks like Marsh Finance agreed later that day to accept £50 per month and it gave Mr P its bank details. Marsh Finance also sent out details of the plan in writing too.

No payments were received so Marsh Finance started trying to contact Mr P again from June 2022. Ultimately it started legal action again, which has led to a judgment. Having considered everything, our investigator didn't make any recommendations.

Mr P didn't agree. He says he received no communication from Marsh Finance from the end of 2019 until recently. He says maybe it should have used recorded delivery. He supplied copies of handwritten letters he says he sent to Marsh Finance explaining his situation. He says Marsh Finance had harassed him and it didn't offer support in line with the Financial Conduct Authority's (FCA) guidance on dealing with vulnerable customers. He says Marsh Finance had the opportunity to resolve things after he wrote back to it in December 2022. In particular, he highlights the complexity of form filling. He says vulnerable customers have different needs and they're at greater risk of harm if things go wrong. Mr P says he had no one to help him with completing the forms and that Marsh Finance decided to bulldoze on towards the court judgment. He thinks he's been discriminated against.

As things couldn't be resolved, 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.

Mr P has complained about how Marsh Finance dealt with him in relation to a hire purchase agreement he had with it. This is a regulated consumer credit agreement, and our service is able to deal with complaints about these sorts of agreements.

I'm sorry to hear about the impact of matters on Mr P.

We've already explained to Mr P that there's been a court judgment in relation to this debt. I've got no power to amend or overturn something decided in court. If Mr P doesn't think the judgment is right, he'd have to return to court to dispute it.

Therefore, I'm focussing my decision on how Marsh Finance dealt with things before obtaining the judgment. Mr P has complained about the support it offered. I'm concentrating on what happened after it received a partial settlement after the accident. I'm required to decide the complaint quickly and with minimum formality. So I'm not going to comment on every interaction Mr P had with Marsh Finance. But I want to reassure Mr P I've reviewed everything on file to help me decide if Marsh Finance needs to take any action.

I can see Marsh Finance made various attempts to contact Mr P throughout the first half of 2019 about the shortfall left to pay after the insurance payment. Mr P wrote to Marsh Finance in July 2019 by email to ask it to stop harassing him. He highlighted he knew about the shortfall, but he'd been off work and that the accident had impacted his life. He wanted Marsh Finance to bear with him why he got his life back on track. He said as soon as he

received compensation for a personal injury claim he would clear the shortfall. He requested email contact because he drove for a living and didn't answer his house phone.

Marsh Finance responded to Mr P to highlight it had not received any letters from him and that it needed to speak to him urgently about the debt to discuss the situation to come towards an agreeable outcome.

I think the email could have been more sympathetic in tone to the situation. Perhaps asking about the best way to speak to Mr P or asking if there was someone who could help him over the phone would have been more appropriate, although Mr P has explained he didn't have an advocate. Mr P had indicated the accident and ongoing calls from Marsh Finance were causing him distress. But on the other hand, Marsh Finance was giving Mr P lots of ways to communicate, and it was seeking the shortfall that was well overdue by this point. It's not unreasonable it was seeking monies that were owed. It also put communications on hold for a week on the basis it would call him afterwards to discuss a way forward. I think this was fair.

Marsh Finance continued trying to speak to Mr P but was unsuccessful. Communications from Marsh Finance dropped significantly in 2021. It looks like Marsh Finance were trying to decide what to do. Mr P, however, said he sent letters to Marsh Finance throughout 2021 about his vulnerabilities. He's supplied a copy of a few letters he says he sent to Marsh Finance throughout 2021 (and one in 2022). I can understand why Mr P was unhappy Marsh Finance didn't respond. But I've not seen any record Marsh Finance received the letters from Mr P. So I'm not sure if he sent them to the right place. It's curious there's no record of receipt for any of the letters. But I've not seen enough to say Marsh Finance acted unfairly by ignoring letters it received. I'm also mindful Mr P had previously used email before and asked Marsh Finance to use email (in July 2019).

Equally, Mr P has said he didn't receive any written correspondence from Marsh Finance. Again, I can't determine exactly what's happened. But I'm conscious it's provided evidence of contact attempts it made by various means and correspondence sent over the last few years.

Marsh Finance did speak to Mr P towards the end of 2021, and it put things on hold because he indicated he was going to refer a complaint to the Financial Ombudsman. When it didn't hear anything, Marsh Finance started to resume contact attempts again mid-way through 2022. I don't think that was unreasonable. Around then it looks like Mr P was disputing the balance owed as well.

Mr P indicated he was willing to pay £50 per month in 2022, which Marsh Finance accepted and wrote to him with details of how payment could be made. But it didn't receive payment, so it recommenced legal proceedings. Mr P says he didn't pay because he never received confirmation. But I think Marsh Finance had done enough to say that it would accept the arrangement.

Overall, I can see Marsh Finance made several attempts to contact Mr P. I can appreciate it must have been frustrating receiving so much contact. But I've not seen Marsh Finance received responses from Mr P with a way forward. So I don't find it hasn't responded to the help he was asking for. I also have to bear in mind that money was fairly owed under the agreement.

Marsh Finance held off from contact when Mr P said it was causing distress, and when he said he'd refer the complaint to the Financial Ombudsman to consider. I think this was fair. But ultimately as no payment was being made, or an arrangement set up I think this led to all the contact attempts it made.

Mr P has indicated he feels discriminated against. And he's said the complaint is about the way Marsh Finance acted under the Equality Act 2010 towards a client who was vulnerable. He said there was opportunity to resolve things even up to the last minute before the court proceedings. He says he had low resilience to financial shock and confusion on complexity of forms. I'd have expected Marsh Finance to make it easy for Mr P to communicate. And it should have considered having a special team deal with his case. But as I said above, I can't see it received the notices Mr P says he sent it in 2021. So I think it simply carried on using the normal channels to communicate with him because it didn't know that might've been inappropriate.

I think Mr P is saying he thinks Marsh Finance has failed to make reasonable adjustments for him. In other words, has failed its duty to make reasonable adjustments under the Equality Act 2010. I've taken the Equality Act 2010 into account when deciding this complaint – given that it's relevant law – but I've ultimately decided this complaint based on what's fair and reasonable. Like our investigator pointed out, If Mr P wants a decision that Marsh Finance has breached the Equality Act 2010, then he'd need to go to Court.

Bearing in mind it's my role to decide what's fair and reasonable in all the circumstances of the complaint, I don't find I have the grounds to direct Marsh Finance to take further action. I've explained why I can't direct it to do anything with regards to what a court has decided Mr P owes. And, in the round, I don't think its communication was unreasonable – based on what I've seen it knew. I think it's important to note that in order for me to say Marsh Finance hadn't communicated appropriately with Mr P or made reasonable adjustments, it would have needed to know how to do that. I can't see it was made aware by Mr P, or that it should have been obvious for the limited contact it did have with him. Based on what I've seen, on balance, I don't have the grounds to say Marsh Finance acted unfairly by not making those adjustments. So I'm not directing it to take any 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 P to accept or reject my decision before 27 October 2023.

Simon Wingfield

Ombudsman