

The complaint

Mr M is unhappy that Clydesdale Financial Services Limited, trading as Barclays Partner Finance ('BPF'), terminated a conditional sale agreement he had with them.

Mr M has been represented during the claim and complaint process by Company K. For ease of reference, I will refer to any comments made, or any action taken, by either Mr M or Company K as "Mr M" throughout the decision.

What happened

In July 2019, Mr M was supplied with a used car through a conditional sale agreement with BPF. He paid a deposit of £5,000 and the agreement was for £49,961.50 over 60 months; with 59 monthly payments of £1,071.16 and a final payment of £34,634.80.

Mr M didn't make the payments in December 2019, April, May, or September 2020. And, while he did then make some additional payments towards his arrears, he also failed to make payments in November 2020, January 2021, and April 2021. In January 2022 he made a token payment of less than £50, and in September 2022, he made an arrangement to pay around £600 a month for six months to help him through a temporary financial difficulty following an injury and a reduction in his work.

In May 2023, BPF advised Mr M that he was almost £4,000 in arrears and asked him to get in touch with them to discuss the situation. As they received no response, BPF followed this with a letter dated 12 June 2023, asking Mr M to contact them. This letter also explained that Barclays may look to terminate the agreement and repossess the car if no action was taken.

No action was taken by Mr M and, on 30 June 2023, BPF terminated the agreement and explained they may be seeking a court order to repossess the car. Mr M contacted BPF on 6 July 2023, asking to put a payment arrangement in place. BPF conducted an income and expenditure assessment and said this didn't show that Mr M was able to maintain payments and clear the outstanding arrears in a reasonable period of time. So, they asked Mr M to either clear the outstanding amount he owed them, or to hand back the car.

Mr M wasn't happy with this, so he complained to BPF. BPF didn't think they'd done anything wrong, so he brought his complaint to the Financial Ombudsman Service for investigation.

Our investigator said that BPF had followed the Financial Conduct Authority (FCA) guidelines to treat customers in financial difficulties with forbearance and due consideration, but this support is temporary and not designed to last indefinitely. The investigator thought BPF had acted reasonably by terminating the agreement when they did, given the arrears and that Mr M hadn't responded to multiple requests to discuss the situation.

While Mr M did contact BPF after the termination of the agreement, the income and expenditure assessment he went through showed he was only able to pay £100 a month towards the arrears. The investigator thought BPF acted reasonably by saying it would take

too long to repay the arrears, as this was a commercial decision and not something we are able to dictate.

So, given all the circumstances, the investigator didn't think BPF needed to do anything more.

Mr M didn't agree with the investigator. He said the "*investigation has fallen short of your duty of care to your client*" and there were two significant errors. However, he didn't explain what he thought these errors were. Through Company K, Mr M said that the arrears were only £2,820, which had accrued during the six-month temporary payment arrangement in place between September 2022 and February 2023, and he would pay an additional £235 a month on top of the normal monthly payments, until the agreement comes to an end in 2025. And he wanted us to put this arrangement in place with BPF.

Because Mr M didn't agree, this matter has been passed to me to make a final decision.

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.

Having done so, I've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome. Where evidence has been incomplete or contradictory, I've reached my view on the balance of probabilities – what I think is most likely to have happened given the available evidence and wider circumstances.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Mr M was supplied with a car under a conditional sale agreement. This is a regulated consumer credit agreement which means we're able to investigate complaints about it.

Before I explain why I've reached my decision, I think it's extremely important for me to make it clear that the Financial Ombudsman Service is an independent complaint handling organisation. And in this matter we represent neither BPF nor Mr M, but instead consider each complaint on its own merits and its own individual circumstances. So, while Mr M has commented that we've failed in our duty of care to him as our client, he isn't our client, so no such duty of care exists.

I've seen the Statement of Account for the agreement Mr M had with BPF. This clearly shows the missed payments I've detailed above, and that Mr M was in arrears *before* the payment arrangement in September 2022. As such, I can't agree with Mr M that his only arrears were the shortfall in payments while the arrangement was in place, and I haven't seen anything that indicated the £3,889 arrears quoted by BPF at the point of termination was incorrect.

Having reviewed BPF's system notes and having listened to recordings of the calls Mr M had with BPF after the agreement was terminated, I'm satisfied that Mr M made no attempt to contact BPF to discuss the arrears situation *after* the payment arrangement ended. And this was despite BPF's attempts to contact him and the letters they sent clearly explaining what would happen if nothing was put in place.

I'm satisfied that BPF followed the FCA's guidelines about forbearance and due consideration, but an arrears situation cannot be allowed to remain indefinitely. In line with

the FCA guidance, BPF were required to act to make sure Mr M's situation didn't continue to worsen; and by terminating the agreement after Mr M failed to contact them about the arrears, I'm satisfied they did this. As such, I don't think BPF did anything wrong by terminating the agreement when they did.

Turning to the offer of repayment Mr M made after the agreement had been terminated, BPF conducted an income and expenditure assessment before considering this. I'm satisfied this was reasonable to do, as BPF still have a responsibility to ensure that any arrangement put in place was sustainably affordable and wouldn't adversely affect Mr M's financial circumstances. As this assessment showed that Mr M was only able to pay an additional £100 a month on top of his normal payment, this would mean it would take 39 months to clear the arrears, with around 12-months remaining on the original term of the agreement. Given this, I don't think BPF acted unreasonably by not agreeing a repayment plan on this basis.

What's more, while Mr M has now offered to pay an additional £235 a month, he hasn't provided any evidence of a change in his financial circumstances which would show this amount was now affordable. And, based on the arrears at termination, this would still take around 17-months to clear the arrears. So, I also don't think BPF have acted unreasonably by not accepting this offer.

As such, and while I appreciate it will come as a disappointment to Mr M, I'm satisfied that BPF have acted reasonably and fairly in the circumstances, and I won't be asking them to take any further action.

My final decision

For the reasons explained, I don't uphold Mr M's complaint about Clydesdale Financial Services Limited, trading as Barclays Partner Finance.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 2 January 2024.

Andrew Burford
Ombudsman