

The complaint

Mr U complains that Secure Trust Bank Plc ("STB") has refused to end his agreement following a change in his personal circumstances.

What happened

In September 2022 Mr U was supplied with a car and entered into a hire purchase agreement with STB. The agreement was for 60 months with monthly payments of £414.67.

Shortly after taking possession of the car, Mr U experienced a change in his personal circumstances having been recalled to prison in October 2022.

Mr U requested to unwind the agreement. This request was made within 14 days of entering into the agreement. Mr U's mother tried to take the car back to the supplying dealer, but they refused to accept it so the car remained on her driveway.

No payments were made to the account from November 2022. STB issued a default notice, terminated the account and took steps to recover and sell the car.

In February 2023 Mr U raised a complaint with STB through his mother. Mr U's mother said she was unhappy that the request to unwind the agreement hadn't been accepted. Mr U's mother said she wanted the car collected and the agreement unwound.

STB didn't uphold the complaint. It said there was no obligation on the supplying dealer or the broker to end the agreement because there was no fault with the car. It said that Mr U had the right to withdraw from the agreement within 14 days and explained that this meant that he could have withdrawn from the finance agreement, not the sale of the car, and that he would've been required to pay the full loan advance to settle the agreement.

Mr U remained unhappy and brought his complaint to this service.

Our investigator didn't uphold the complaint. He said that STB had acted in line with the terms and conditions of the agreement and that he wouldn't be asking it to do anything further.

Mr U didn't agree so I've been asked to review the complaint.

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.

It's not disputed that Mr U requested to unwind the agreement. The information shows that Mr U's mother contacted STB on 4 October 2022 to advise that he had been taken into custody and requested that the agreement be unwound. STB's records show that it referred Mr U's mother to the dealer to discuss this request.

I understand that the dealer refused to take the car back. Generally, an agreement can only

be unwound if there's a fault with the car which makes it of unsatisfactory quality. I haven't seen any evidence to suggest that this was the case here. So I don't think the dealer treated Mr U unfairly when it refused to take the car back.

Mr U did have a right to withdraw from the agreement under section 66A of the Consumer Credit Act 1974. Any request made under this section would have to be made within 14 days of the agreement being executed. The right to withdraw refers to the right to withdraw from the finance agreement, not from the sale of the vehicle. So, if he had exercised his right to withdraw – which I can't see that he did – Mr U would have been required to pay back the loan advance within 30 days and he would have kept the car.

STB has said that it discussed the right to withdraw with Mr U's mother and she confirmed that Mr U wouldn't have been able to pay back the loan advance as required in this scenario due to his personal circumstances.

I've reviewed the account. I can see that the account fell into arrears in November 2022. STB issued a default notice and terminated the agreement. The car was recovered and sold at auction and the funds received were applied as a partial settlement, leaving a balance of around £18,650 for which Mr U is responsible.

Based on what I've seen, I'm unable, to say that STB made an error or treated Mr U unfairly. The agreement has been defaulted and terminated due to the level of arrears on the account.

I appreciate that Mr U (or his mother) wanted to resolve the matter in a different way. However, as I've explained, there was no fault with the car so unwinding the agreement wasn't an option. I haven't seen any evidence to suggest that STB acted unfairly or unreasonably in taking the steps it did.

For the reasons I've explained, I'm unable to uphold the complaint.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr U to accept or reject my decision before 20 February 2024.

Emma Davy
Ombudsman