

## The complaint

Mr P is unhappy with a camper van that was supplied to him under a hire purchase agreement with MI Vehicle Finance Limited, trading as Mann Island.

## What happened

On 4 February 2022 Mr P signed a hire purchase agreement with Mann Island for a camper van. This was a new vehicle that had only travelled around 200 miles. Mr P agreed to pay a cash price of £61,995. He paid a deposit of £16,995, with the rest repayable over 60 months using the finance agreement.

Mr P said he signed this agreement online after seeing the dealer's advert. The vehicle was advertised for a cash price of £62,995. The advert described it as a "shining example" and a "luxury" camper, listing features such as:

- "Double swivel passenger seat"*
- "Sleeping capacity 4", "Berth 4"*
- "Fresh and waste water tanks".*

Mr P said he didn't see the vehicle until he went to collect it, a few days after he'd signed the finance agreement. He said he was disappointed to discover it didn't match the description in the advert for the following reasons:

- Only three seats were registered on the V5 document. Mr P was concerned that this may mean he can't legally carry four people – or that it may invalidate his insurance.
- It didn't have double swivel seats – only the passenger seat would turn around. Mr P said this means only three people can sit at the table for meals.
- Gas and electrical safety certificates weren't provided. Mr P was concerned whether the gas installation meets the required safety standards.
- The waste water tank was required to be attached externally, instead of being fitted inside the vehicle.
- Although the vehicle had been described as a "luxury" camper and a "shining example", there was no hot water or heating system. Mr P said he expected these to be standard features in a top of the range camper van in this price bracket.
- The spare wheel was a standard 19-inch space-saver. Mr P was concerned that this can't be used with the upgraded 20-inch wheels supplied on the vehicle.
- There weren't enough mattresses for four people to sleep on.
- The price of the vehicle didn't include road tax – the dealer insisted on charging extra for this.

Mr P said he told the dealer that he didn't want to go ahead with the deal because he wasn't happy with the vehicle. But he said the dealer told him his deposit wasn't refundable, so he felt he had no choice in the matter.

Mr P told us that several warnings came on during his journey home, including dashboard warning lights for the coil, engine light, traction control system and anti-lock braking system. He said alerts also appeared stating:

*Error: start/stop*

*Error: hill start assist*

*Front assist unavailable*

*Error: park distance control*

*Please check right tail light.*

Mr P complained to the dealer about these problems, and also raised concerns that the fresh water tank wasn't properly secured. Having been unable to get things resolved to his satisfaction, he complained to Mann Island that he wanted to reject the vehicle and receive a full refund of the money he'd paid.

Mann Island issued their final response to Mr P's complaint on 30 May 2022. They said they wouldn't accept his request to reject the vehicle because they hadn't been provided with any evidence to support his claim that it had been mis-sold to him. They said warning lights need further investigation because they can come on for a number of reasons, but he'd refused to allow the dealer to look into it.

Dissatisfied with this response, Mr P referred his complaint to us. After looking into what had happened, our investigator didn't uphold the complaint. She said she wasn't persuaded that there was a fault with the vehicle or that it had been misrepresented to Mr P.

Mr P provided lengthy comments in response, much of which repeated information he'd already provided to us. I'll briefly summarise the additional points he made:

- The investigator's view focused on section 9 of the Consumer Rights Act 2015 (CRA), relating to the implied term that the goods must be of satisfactory quality. The evidence provided showed there'd been breaches of the implied terms described in section 10 (goods to be fit for a particular purpose) and section 11 (goods to be as described).
- When considering the standard a reasonable person would expect, it's relevant to bear in mind the considerable purchase price – nearly £63,000 – and the descriptions in the dealer's advert.
- There was no obligation on Mr P to allow the dealer or Mann Island an opportunity to repair the defects before he exercised his right to reject the vehicle - which he'd done well within 30 days of collecting it.
- The investigator's view hadn't considered Mr P's right to withdraw from the finance agreement and cancel the contract under the Consumer Credit Act 1974 and the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013.
- If the advert hadn't made false representations about the vehicle, Mr P would never have signed the agreement.

Mr P said his complaint should have been resolved at the outset, after he'd exercised his right to reject the vehicle. He told us that he's receiving ongoing treatment following a cancer diagnosis. He said the situation with the camper van has been incredibly upsetting - adding unnecessary stress and anxiety at a time that's already very challenging for him. He asked for an ombudsman to review the case.

### **My provisional decision**

On 1 May 2024 I issued a provisional decision, saying:

*I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.*

*I'm aware that a considerable amount of legal discussion has taken place between the parties, both of whom instructed solicitors in an attempt to resolve this dispute. I won't be considering every point that's been raised in the same level of detail – that's not my role. We're here to offer a free service to try to resolve complaints between consumers and businesses informally.*

*The agreement between Mann Island and Mr P was for hire purchase. I'm satisfied that I can consider complaints about this type of finance. Under the hire purchase agreement Mann Island is the supplier of the vehicle, so they're responsible for a complaint about its quality.*

*The Consumer Rights Act 2015 (CRA) is relevant to this complaint. It says every contract to supply goods is treated as if it includes a term saying the quality of those goods will be satisfactory.*

*The standard that's applied is whether a reasonable person would consider the quality of the goods to be satisfactory, taking into account the way they were described, the price and all the other relevant circumstances. The CRA says the quality of the goods includes things like whether they're fit for all the purposes that type of goods are usually supplied.*

*So, when I'm thinking about whether the camper supplied to Mr P was of satisfactory quality, I'll bear in mind the way it was described, and whether I think it was reasonably fit for all the purposes a consumer would generally want that type of vehicle for.*

*The CRA also sets out circumstances where the agreement will be treated as if it includes more specific terms about fitness for purpose and the description of the goods. I'll briefly summarise these:*

- If the consumer made the dealer aware of a particular purpose he wanted the goods for - either expressly or by implication - before the contract was made, then the contract is treated as if it includes a term that the goods are reasonably fit for that purpose.*
- If the contract is to supply goods by description, it's treated as if it includes a contract term saying the goods will match the description.*

*I've seen no evidence to suggest Mr P made the dealer aware of any particular purpose that he had in mind for this camper van. But he's told us that he relied heavily on the way it was described in the dealer's advert, because he didn't see the vehicle until after he'd signed the agreement. I've considered whether I think the vehicle matched the descriptions.*

### Swivel seats

*The advert described the vehicle as having a "double swivel passenger seat". It later referred to "double swivel seats". So, I'd expect two seats that face forwards whilst travelling to have the ability to turn around to face the living accommodation area.*

*In their final response letter to Mr P dated 30 May 2022, Mann Island confirmed that the driver's seat "does not swivel as the kitchen is directly behind the driver's seat – this is standard in this vehicle. There is an option to have either a single passenger seat or a double passenger seat, which would then be the double swivel seat".*

*Mr P has confirmed that only the passenger seat is capable of turning. Having reviewed the*

photos in the advert, I can see the passenger seat is only wide enough to seat one person. So, I'm satisfied that the seating arrangement doesn't match the description.

I consider this to be a significant issue in this type of camper van, where living space is limited. Mr P has told us that the lack of double swivel seats means it's not possible for four people to sit at the table to eat meals. Bearing in mind this was a brand new vehicle priced at more than £60,000, I don't think it was unreasonable for Mr P to expect this feature to be fitted. I wouldn't consider the vehicle to be of satisfactory quality without it.

In response to his complaint about the swivel seats, Mann Island said Mr P inspected the vehicle before he purchased it and confirmed to the dealer that he was happy with the single passenger seat. I'm not persuaded of this – I'll explain why.

Mr P said he didn't see the vehicle until he went to collect it - a few days after he'd signed the hire purchase agreement. I think his recollection about this is most likely to be correct because I've seen a copy of the hire purchase agreement dated 4 February 2022 and the dealer's vehicle sales order that's dated 7 February 2022.

Mr P said that, when he first saw the vehicle, he was hugely disappointed to discover it didn't have double swivel seats. He told us that the salesperson said he'd lose his deposit if he didn't accept the vehicle.

Again, I think Mr P's recollection of what happened here is most likely to be accurate. I say this because the dealer's sales order states: "Deposits on cancelled purchases are non refundable." Under those circumstances, having paid a deposit of nearly £17,000, I think Mr P would've felt he had no option but to accept the vehicle.

If a change to the advertised specification was agreed, I'd expect to see that evidenced in writing. I haven't seen any supporting evidence to show Mr P expressly agreed to any changes. For that reason, I find the vehicle wasn't as described in the advert and also wasn't of satisfactory quality.

I've also considered the other concerns Mr P raised. I'll briefly summarise my thoughts:

- Sleeping capacity

Mr P expressed concerns that it may not be legal for him to carry four people in the vehicle – or that his insurance might not cover him to do so. But I've seen no supporting evidence to persuade me that there's a problem here.

Mr P told us no mattresses were provided for two of the beds. I've seen no supporting evidence about the sleeping areas in the vehicle, so I've been unable to consider whether I think the description about sleeping capacity was accurate.

- Water and heating

Mr P felt it wasn't acceptable that the waste water tank had to be attached externally. But I've seen nothing that persuades me it was reasonable for him to expect it to be fitted internally.

Bearing in mind the price he'd paid and the descriptions in the advert, Mr P thought the vehicle should've had heating and hot water facilities. I've seen nothing in the advert about any kind of heating system. It specifically states "water temperature cold water".

So, although I appreciate this was an expensive vehicle, I've seen nothing that persuades me it was reasonable for Mr P to assume it would have heating and hot water systems. If these features were important to him, I think he should've made further enquiries before he signed the agreement.

- Safety

Mr P expressed concerns as to whether the gas installation was safe, the vehicle was fit for habitation, and whether the spare wheel was appropriate. As I've seen no supporting evidence showing there's a problem with any of these things, I haven't considered them any further.

- Faults with the vehicle

Mr P said a number of warnings appeared on the dashboard when he stopped for fuel on his way home. He showed us photos showing various warnings displayed.

Warnings can come on for a number of reasons. For example, it's normal for several warning lights to come on when the ignition is switched on. Specific warnings may be displayed if the vehicle's features aren't used in the way they were intended.

In the absence of supporting evidence showing what was most likely to have caused warnings to come on in this case, I'm unable to conclude that it was due to one or more faults with the vehicle.

Mr P also complained that the fresh water tank wasn't properly secured. Again, I've seen no supporting evidence of this. In the absence of further evidence, I'm not persuaded that this was a fault.

- On-the-road price

Mr P complained that the advertised price should've included road tax. The advert I've seen shows a cash price of £62,995.

I've seen no evidence to show Mr P was required to pay more than this amount. The agreement he signed on 4 February 2022 and the dealer's vehicle order form dated 7 February 2022 both state the vehicle was sold for a cash price of £61,995.

### Putting things right

I've seen evidence showing Mr P made it clear he wanted to reject the vehicle within 30 days of collecting it. I'm satisfied that he had the right to do so because it wasn't as described and wasn't of satisfactory quality. So, I think Mann Island should make arrangements to collect the vehicle without charge to Mr P, on a date that's convenient for him, and end the agreement.

I think Mr P should receive a refund of the deposit he paid, with interest. I note that the agreement is in arrears because Mr P hasn't made the expected monthly repayments. When calculating the amount to be refunded, Mann Island will be entitled to offset this against any outstanding amount owed to them. I'll explain how I think that should be calculated.

I haven't seen any supporting evidence showing a family of four people wouldn't be able to use this vehicle as a camper van. I think it's fair that Mr P should pay for the use he's had of it until the date Mann Island collect it.

*But I consider the lack of double swivel seats to restrict the way four people could use the living accommodation – particularly at mealtimes. To reflect that loss of functionality, I think it's fair for Mann Island to refund 10% of the monthly instalments due under the agreement during the time Mr P has had use of the vehicle.*

*I don't think it would be fair for Mr P's credit file to be affected as a result of him being supplied with a vehicle that wasn't of satisfactory quality and as described. So, Mann Island should remove any adverse information that's been recorded about this agreement.*

*I think Mr P has been caused stress and inconvenience due to being supplied with a vehicle that wasn't as described, and not being allowed to exercise the right to reject it. He felt he needed to instruct a solicitor to get things resolved. He's told us that this situation added unnecessary pressure at a time that was already very difficult due to the medical treatment he's been undergoing.*

*Given the amount of money he'd paid for this vehicle, I can understand that Mr P would find this situation very upsetting. I think it's fair for Mann Island to pay him £500 compensation for the distress and inconvenience caused.*

*Mr P has incurred significant legal expenses due to having instructed a solicitor to handle his dispute with the dealer and Mann Island. When thinking about this, I bear in mind the letter Mann Island sent Mr P on 10 May 2022. I've seen that this made him aware of his right to refer his complaint to our service. This was explained to him again in Mann Island's final response letter dated 30 May 2022, which also made it clear that our service is free of charge.*

*I think Mr P could've chosen to refer his complaint to our service if he didn't want to incur the expense of using a solicitor. So, I don't think it would be fair for me to direct Mann Island to cover his legal costs.*

Both parties sent lengthy comments in response, some of which repeated information we'd already seen. I'll focus on the new information they submitted.

Mr P provided:

- A photo of the beds for the additional two passengers in the roof of the vehicle,
- A video clip of the fresh water tank,
- A photo of the waste water pipe. He said this pipe discharges straight to the ground, which is prohibited at virtually all campsites.

Mr P repeated his other concerns about the vehicle, stressing the various grounds on which he felt he should've been entitled to end or cancel the agreement. Mr P expressed the following concerns about the outcome I'd proposed:

- He'd calculated that he'd still have to pay Mann Island somewhere in the region of £645, even though he was already out of pocket due to the legal expenses he'd incurred. Mr P said he wouldn't be in that position if Mann Island had allowed him to exercise his right to reject the vehicle.
- The vehicle was unlikely to have depreciated to any great extent because it had only covered about 9,500 miles since he got it. He felt this might result in Mann Island receiving an unexpected windfall - whereas he'd incurred the extra costs of arranging alternative family holidays.
- He'd complained to our service in July 2022 - and contacted us again the following year because he hadn't heard back from us. He'd had to incur legal costs to protect

himself in the meantime because Mann Island had threatened him with court action and sent a bailiff to try to repossess the vehicle.

Mann Island said:

- Mann Island provide vehicle financing – they didn't describe the vehicle to Mr P. As Mr P's complaint relies on section 75A of the Consumer Credit Act 1974, it should be made clear that Mann Island would only be liable if his claim hadn't been settled by the dealer, as supplier of the vehicle.
- Mr P didn't reject the vehicle because he didn't return it or allow it to be collected, despite multiple attempts by the dealer to arrange collection so they could repair it. In March 2022 Mr P sent an email saying "*I definitely will not let it leave my premises now.*"
- Mann Island provided a copy of a termination notice they'd issued in February 2023, telling Mr P he no longer had their consent to keep the vehicle. They felt it should be made clear that the vehicle is to be collected by a given date - although this shouldn't be less than four weeks after the delivery of my final decision.
- If interest is to be added to the deposit Mr P paid at 8%, interest should also be added to the sums he owes to Mann Island.
- As Mr P hasn't paid any of the monthly instalments he owes, there's nothing to be refunded to him. And there wouldn't be any interest on the 10% allowance to be credited to his account for the lack of swivel seats.
- No up-to-date information has been provided as to how many miles the vehicle has done or what condition it's now in. Allowance should be made for depreciation whilst it's been in Mr P's possession, calculated at £197 per month.
- Allowance should also be made for the genuine losses Mann Island incur as a result of the agreement being cancelled early, which would normally be deducted from the deposit.
- If any compensation is due to Mr P for distress and inconvenience, this should be paid by the dealer. If he's unable to recover it from the dealer, it should be deducted from the amount he owes to Mann Island.
- Any action Mann Island are directed to take in relation to Mr P's credit file should be subject to him paying all sums due under the agreement.

On 28 May 2024 I wrote to both parties, setting out my thoughts on the additional information they'd provided. I said:

*Roles and responsibilities of Mann Island and the supplying dealer*

*The agreement between Mann Island and Mr P was for hire purchase. Under this type of finance arrangement, Mann Island would've paid the supplying dealer for the vehicle in full before Mr P took delivery of it. Mann Island then hire the vehicle to Mr P for the duration of the agreement with an option for him to purchase it at the end.*

*So, although Mr P collected the vehicle from the dealer, his agreement is with Mann Island. The supplying dealer acted as credit intermediary - introducing Mr P to Mann Island. In these circumstances section 56 of the Consumer Credit Act 1974 makes it clear that Mann Island will be liable for representations made by the dealer before Mr P signed the finance agreement.*

*Section 75 of the Consumer Credit Act 1974 provides a potential remedy against a finance company for breaches by the supplier in certain specific circumstances. That's not applicable here, because Mann Island is both the finance company and the supplier of the vehicle.*

*For these reasons, I consider it entirely appropriate that my decision focuses solely and directly on the liability of Mann Island.*

#### *Mr P's right to return the vehicle*

*I won't be going into lengthy discussion on legal points that I think make no difference to how this matter should be resolved. That's not part of my role.*

*I explained in my provisional decision that I'm satisfied this camper van wasn't as described, or of satisfactory quality, due to the lack of double swivel seats. This breaches terms the Consumer Rights Act 2015 says are to be included in Mr P's agreement with Mann Island.*

*So, I'm satisfied Mr P has access to remedies set out in the Consumer Rights Act 2015 – which in this case includes the right to reject the vehicle. I see no reason to consider whether other issues Mr P has raised would potentially allow me to reach a similar outcome.*

*Given the length of time this matter has been ongoing, I think it's reasonable for me to direct that the vehicle should be returned to Mann Island within four weeks of the date Mr P accepts my final decision - if he decides to do so.*

#### *Right to offset amount(s) owed to Mann Island against amount(s) to be returned to Mr P*

*Having decided Mr P should be allowed to reject the vehicle, I think he should receive a refund of his deposit plus 8% simple interest, calculated from the date he paid the deposit to the date of settlement by Mann Island. I think that's fair to compensate Mr P for not having the £16,995 he paid as a deposit available to use for other purposes.*

*Mann Island have pointed out that, after paying his deposit, Mr P didn't make any of the expected monthly repayments. They feel they should be entitled to interest on the amount owed to them.*

*It isn't my role to consider or explain what the agreement terms say about payments that weren't made when they were due. It's for Mann Island to calculate the outstanding balance Mr P owes, in line with the agreement terms. But I think they should reduce the monthly repayments due whilst the vehicle has been in Mr P's possession to reflect the fact that it wasn't of satisfactory quality.*

*Although Mr P retained possession of the vehicle, he says he hasn't been able to use it as a camper for family holidays. He's provided further information, the majority of which repeats things I've already seen. I've yet to see anything that persuades me this vehicle couldn't be used for its intended purpose.*

*I've now seen a photo showing no mattresses on the additional two beds. Although I accept that would pose a problem on family holidays, I think Mr P could've sourced two suitable camping mattresses at fairly minimal expense. I appreciate this may have caused him some additional cost and inconvenience, but I'd expect him to mitigate his losses.*

*Mr P has provided a video and photo showing the fresh water tank and waste water discharge pipe. I've seen no supporting evidence to confirm his claims that these arrangements wouldn't be considered acceptable in this type of camper van.*

*I remain of the view that Mr P should pay for the use he's had of the vehicle until the date Mann Island collect it. But that Mann Island should apply a deduction of 10% of the monthly instalments due in that period, to reflect the loss of functionality expected from double swivel seats.*



Other expenses and/or losses sought by the parties

*Mann Island suggest I should make allowance for depreciation of the vehicle whilst it's been in Mr P's possession. Mr P says the vehicle hasn't depreciated because he's made relatively little use of it - he suggests Mann Island stand to make a profit.*

*I'm not persuaded by either of these arguments. I'd expect normal depreciation to have been taken into account when Mann Island set the monthly repayments required under the hire purchase agreement. I note that the agreement terms require Mr P to take care of the vehicle; to keep it in good repair and condition (allowing for fair wear and tear); and to keep within the agreed mileage allowance.*

*Mann Island also suggest I should take account of losses they've incurred as a result of the agreement having been cancelled early. I don't find that to be an appropriate consideration here. I consider Mr P to have the right to reject the vehicle due to Mann Island's breach of contract. Different considerations might apply if they'd supplied a vehicle that was of satisfactory quality and matched the descriptions in the advert.*

*Mr P has asked me to reconsider whether Mann Island should cover some or all of the legal expenses he's incurred. He says he had to get legal advice because Mann Island threatened legal action.*

*I've seen references to extensive correspondence between legal representatives over many months, in which various offers and threats of possible legal action were mentioned. I haven't reviewed all of this correspondence. Nor have I seen any kind of breakdown of the costs involved, which I understand to be significant.*

*I do think it would've been possible for Mr P to ask Mann Island to hold off any legal action whilst our service considered his complaint, without incurring significant legal costs. So, I remain of the view that it wouldn't be fair for me to direct Mann Island to cover the legal costs he's incurred.*

*For the reasons I've explained, I intend to uphold this complaint and direct Mann Island to:*

- 1. Collect the vehicle at no cost to Mr P, on a date that's convenient for him and within a maximum of four weeks of the date he accepts my final decision.*
- 2. Bring the agreement to an end on the date the vehicle is collected. No charge should be applied for ending the agreement early, or for any further repayments of credit or interest that would otherwise have become due after that date.*
- 3. Refund Mr P's £16,995 deposit, plus 8% simple interest calculated from the date he paid it to the date of settlement. Mann Island are entitled to offset the amount to be refunded against any amount Mr P owes them.*
- 4. Recalculate the outstanding balance owed on Mr P's account, reducing all monthly repayments owed for the time the vehicle's been in his possession by 10%.*
- 5. Remove any adverse information that's been recorded on Mr P's credit file about this agreement.*
- 6. Pay Mr P £500 compensation for the distress and inconvenience he's been caused.*

Both parties sent detailed responses. I'll summarise the key points that hadn't previously been raised or addressed.

Mr P asked me to consider the following:

- He'd incurred £35,000 in legal costs to date, of which:
  - £11,400 related to his complaint to our service.
  - £17,300 related to correspondence exchanged with the dealer and Mann Island. 75% of this expense was incurred after he complained to our service.
  - £6,300 related to settlement attempts.

These figures are approximate and include VAT. Mr P had made attempts to settle the matter at an early stage, so it would be reasonable to expect Mann Island to contribute to the costs he'd incurred since.

- If Mann Island had allowed him to reject the vehicle in February 2022 and returned his deposit, he wouldn't have had to pay any part of the monthly instalments. He could've bought another vehicle. Instead, he's had the hire purchase for this high value vehicle on his credit file - and he's had to tax and insure it for well over two years - without being able to use it for its intended purpose.
- A 10% reduction wasn't fair. The monthly payments were high because the agreement didn't provide for any 'balloon payment' at the end. The monthly payments also included interest, which Mann Island shouldn't be entitled to charge.
- Mr P provided copies of adverts for similar used camper vans. These prices were in line with - or exceeded - the purchase price of this one. He felt he shouldn't be left in a substantially worse position than if he chose to sell the vehicle privately and pay off the finance.

Mann Island requested further consideration and/or clarification of the following points:

- Whether they're entitled to calculate the outstanding balance Mr P owes in line with the agreement terms. Mann Island felt this was inconsistent with my proposed direction that they should reduce the monthly payments by 10%.
- They shouldn't be prevented from recovering any sums which are contractually permissible, except where my decision expressly prevents them from doing so. For example, they're entitled to apply charges if Mr P hasn't complied with his obligations to maintain the vehicle in good condition and keep to the agreed mileage allowance.
- In relation to Mr P's deposit, it would be fairer and more proportionate to reduce the amount to be returned in proportion to the use he's had of the vehicle. They suggested dividing the total deposit by the 60-month term of the agreement, arriving at a figure of £7,931 to date and continuing at a rate of £283.25 per month.
- Mann Island and the dealer had both made offers to Mr P to try to resolve the dispute. He'd rejected these and refused to sign a settlement agreement. He'd also refused to allow them to collect the vehicle, which they'd proposed at a very early stage.
- My proposed award of 8% interest is punitive and not justified in the circumstances. This effectively provides a windfall for Mr P, when he's had the use of the vehicle for the entire period. My decision isn't like a court judgment. The interest rate on an instant-access savings account reached a 13-year high of 2.82% in January 2024.

### **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.

A large amount of information has been shared in this case. If I haven't commented on a particular point that isn't intended as any discourtesy. Nor does it mean I haven't considered it – I have. But after reviewing everything again, I'm satisfied that the decision I proposed on 28 May 2024 was fair and reasonable.

I won't repeat things I said in my provisional decision on 1 May 2024 and the email I sent to both parties on 28 May 2024. Those explanations can be found in the section of this document headed "my provisional decision", and I consider them to be clear. But I think it would be helpful to expand on some of the points the parties have raised.

I think it's fair to say many of the points that remain in dispute have arisen due to the length of time this matter has remained unresolved. That's led to additional concerns about the current value of the vehicle; how much use Mr P's had from it; interest on sums owed; and the substantial legal expenses Mr P's incurred.

### Legal expenses

We provide a free alternative to the courts – consumers don't need legal representation to use our service. Unfortunately, due to the high demand for our help, our customers sometimes have to wait longer than we'd like for one of our investigators look into things. But I remain of the view that it would've been possible for Mr P to ask Mann Island to hold off any legal action whilst our service considered his complaint, without incurring significant legal costs.

Both parties have highlighted their attempts to resolve this dispute at an early stage. When thinking about this, I've considered what should've happened when Mr P chose to reject the vehicle. I've then reviewed whether both parties took the actions I'd expect to see.

The CRA makes it clear that, once Mr P exercised the right to reject:

- Mann Island has a duty to refund the money Mr P paid. This should be given without unnecessary delay - and within 14 days of the date Mann Island agree he's entitled to a refund.
- Mr P has a duty to make the vehicle available for collection.

I don't think either party can be said to have complied with these obligations.

I do think it was reasonable for Mann Island to expect to be able to collect the vehicle from Mr P. I think that would've been an efficient way for them to check what was wrong with it; whether Mr P had grounds to reject it; and end the agreement if that was confirmed to be the appropriate course of action. But I don't think this was clearly explained to Mr P. I've seen offers were made to collect the vehicle so it could be repaired, which I think would've been confusing and concerning for him.

Even so, I don't think it was reasonable for Mr P simply to refuse to allow Mann Island to collect it – or to pay any of the required monthly instalments in the meantime. I think the lack of supporting evidence about the condition of the vehicle has contributed to the delay in getting this matter resolved.

## Calculation of the amount to be returned to Mr P

I'm not swayed by the arguments either of the parties have put forward about the amount Mr P should pay for the use he's had of the vehicle, or whether its current market value should be taken into account. I've already set out my thoughts on those issues.

I remain of the view that it's fair for Mr P to receive 8% interest on the deposit he paid in February 2022. This isn't intended to be punitive. I've already explained that I consider this fair to compensate Mr P for not having that sum of money available to use for other purposes. I don't think the rate of interest he'd have got in an instant access savings account is the relevant consideration here.

### **My final decision**

For the reasons I've explained, I uphold this complaint and direct MI Vehicle Finance Limited, trading as Mann Island, to:

1. Collect the vehicle at no cost to Mr P, on a date that's convenient for him and within a maximum of four weeks of the date he accepts my final decision.
2. Refund Mr P's £16,995 deposit, plus 8% simple interest calculated from the date he made that payment until the date of settlement. Mann Island are entitled to offset the amount to be refunded against any amount Mr P owes them.
3. Recalculate the balance owed on Mr P's account in line with the terms and conditions of the agreement, but making the following adjustments:
  - i. Reducing all monthly payments Mr P owes for the time the vehicle's been in his possession by 10%.
  - ii. Ending the agreement on the date the vehicle is collected. No administration charge should be made for cancelling or terminating the agreement early, or for any further repayments of credit or interest that would otherwise have become due after that date.
4. Remove any adverse information that's previously been recorded on Mr P's credit file about this agreement.
5. Pay Mr P £500 compensation for the distress and inconvenience he's been caused.

If Mann Island consider tax should be deducted from the interest element of the award, they should tell Mr P how much they've taken off. They should also give him a tax deduction certificate if he asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 25 July 2024.

Corinne Brown  
**Ombudsman**