

complaint

Mr A complains that Craig's Motorcycles Limited misrepresented the cost of a conditional sale agreement.

background

Mr A wanted to buy a motorcycle from Craig's. He says Craig's found a lender that didn't charge any fees. But when Mr A went to collect his motorbike, Craig's said the application had been declined. But finance was available from another lender. And Mr A had to go to a different Craig's office to complete the application online.

When Mr A got there he found the new finance agreement cost about £300 more than the previous one - and it included fees. He says he felt pressured as the office was about to close and accepted it reluctantly. He contacted Craig's two days later to cancel and return the motorbike for a refund of his deposit. But Craig's told him he could withdraw from the finance but not the sale – so he would have to find another way of funding the purchase. Mr A says Craig's misrepresented the terms of the finance so he should be able to rescind the agreement.

Craig's says Mr A was fully informed about the cost of the finance - as he went through the online application before he completed the agreement. And he didn't have to accept the terms if he was unhappy with them. Or he could have arranged alternative finance afterward (during the 14 day withdrawal window). As a goodwill gesture it has offered to reduce the labour charge on Mr A's next service by 50%.

Our adjudicator didn't recommend the complaint should be upheld. She says the terms of the agreement were clearly set out. And Mr A knew how much the agreement cost before he signed so that wasn't misrepresented.

Mr A disagrees. He says Craig's should have told him the second agreement would cost more before he paid his deposit. And it misrepresented the terms by not doing so.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in the light of the available evidence and the wider circumstances

Mr A complains about Craig's actions as a credit intermediary. And for me to uphold his complaint I must be satisfied Craig's misrepresented the terms of the finance agreement to him.

There's no dispute Mr A knew the new finance agreement cost more than the first one when he signed it. But he says Craig's should have told him about the extra cost before he paid the deposit. Craig's says it did tell Mr A there were some differences between the two agreements before he left to complete the documents. But Mr A says he was told the terms were the same.

I can't be certain what was said at that point. But Mr A says when he reached the second office he went through finance documentation twice before signing it - because he noticed some of the figures were wrong. And he accepts that there was "no issue" with the employee who took him through the process and says the finance was dealt with "correctly".

I appreciate that Mr A considers he had no choice but to proceed - because he had already paid his deposit. And he thought Craig's wouldn't return it. But Craig's says it would have refunded the deposit, if Mr A had rejected the finance. And I'm satisfied that if Mr A felt that the additional cost was too much, then it would have been reasonable to ask for the deposit back. But he didn't, and I can't fairly hold Craig's responsible for that.

Instead, Mr A told Craig's he would accept the terms - but expected a discount on future servicing. So, on balance, I'm satisfied he had enough time to weigh up his options and decide whether to proceed. Craig's has since offered a 50% discount on Mr A's next service. I realise Mr A has re-considered, and no longer wants a discounted service, but I can't fairly find the agreement was misrepresented because of that.

In all the circumstances, I am not persuaded that Craig's misrepresented the terms of the finance to Mr A - or that he wasn't given enough time to consider them or was pressured into signing. I realise this will come as a disappointment to Mr A, as it's not the outcome he wanted. But, for the reasons I have given, I can't fairly uphold his complaint.

my final decision

My decision is that I do not uphold this complaint. Under the rules of the Financial Ombudsman Service, I am required to ask Mr A to accept or reject my decision before 17 March 2015.

Claire Jackson
ombudsman