



Date: 25<sup>th</sup> April 2024

To Whom It May Concern,

### **25<sup>th</sup> April 2025 – Woodville Consultants commentary on the PCP marketplace**

With such huge media attention in the UK at present on the PCP industry, we at Woodville thought it beneficial to summarise much of what is going on and provide commentary on the effects on us as a company and ultimately you, our valued partners.

We set out below some key information on the Financial Ombudsman Service scheme due for launch in September 2024 and the impact on our more recent funded cases with the relevant law firms.

First though let's look at the industry – Please refer here to the 'Overview Document'. This shows the sheer scale of what is coming to the PCP claims space.

With millions of PCP agreements having been mis sold (<https://www.fca.org.uk/publication/multi-firm-reviews/our-work-on-motor-finance-final-findings.pdf>) in the UK over the last 20 years, putting it simply, the Courts would be overwhelmed and family court cases, personal injury, in fact any civil dispute would be delayed as the Courts time would be wholly taken with dealing with PCP case hearings. The regulator simply had to act. They did in January this year with the announcement of the FOS scheme, launching in September 2024.

The summary of this being lenders must put the systems in place to ensure the claiming customer is reacted to in a timely manner on the secret commissions, plus interest being returned to the customer that which was charged at the time of their car finance agreement being taken out. This process will avoid court hearings which of course is great news for Woodville as the time from start to finish on a case will greatly reduce.

Cases that are being lent on TODAY (and since approx February) have all been 'paused' pending the FOS scheme.

What this means in reality is that the lenders have been given permission to delay in RESPONDING to claims until 24th September: see link here:

<https://www.financial-ombudsman.org.uk/consumers/complaints-can-help/credit-borrowing-money/car-finance/complaints-about-commission>

from that link:

### **What this means for complaints**

If your complaint is covered under the FCA's temporary complaint-handling rules, the business must tell you. You can still complain to the finance provider or car dealer, but they won't have to respond to your complaint until after 24 September 2024, at the earliest.

This means that claims are still being lodged with the lenders on a daily basis, on a first come first served basis, so in September claims that have been submitted since February will be at the first of the line so to speak. Claims submitted in September will be at the back of the line, so those claims will take longer to be dealt with until the backlog of claims submitted Feb to Sept are dealt with. Therefore, the time to buy these cases is over the summer to be at the front of the line if we want the quickest resolution of the cases.

This is why our model for ALL NEW MONEY will only be spent on FOS cases (not litigated cases).

The cases will be submitted to the lenders and 'join the line'.

In September the lenders will start adjudicating on the cases and our cases will move up that line until they get to the front and be dealt with, remembering here that lenders have 56 days to respond.

We now turn to a review of the PCP litigation marketplace.

### **PCP Litigation Overview**

In the UK, most automotive vehicles purchased on credit are financed using a Personal Contract Purchase ("PCP") agreement. For over 20 years, many lenders utilized brokers to arrange and negotiate the credit terms with automotive purchasers. The brokers were often paid commissions that were not disclosed to the purchasers. These commissions could be fixed, or they could be variable to the broker, increasing as the rate charged to the purchaser increased (a Discretionary Commission Agreements or "DCA").

### **The Law**

PCPs are governed by the Consumer Credit Act of 1974 (the "CCA"). Under the CCA, the courts have wide discretion to reopen a credit agreement where certain conditions

exist, one of which is the existence of a an “*unfair relationship*” between the creditor and the debtor. An unfair relationship can be found based upon “*any ... thing done (or not done) by, or on behalf of, the creditor*”. In the landmark case, Plevin vs Paragon, the UK Supreme Court determined where a commission is not disclosed to a purchaser of insurance, the relationship between the creditor and debtor is deemed “unfair” and the purchaser is entitled to damages. Damages generally included the return of the commission and interest thereon.

Although the Plevin case involved the purchase of insurance, failure to disclose commissions on PCPs also give rise to liability to automotive purchasers. The value of damages a PCP claimant is entitled to is generally, in the case of DCA’s, the return of the interest paid in excess of the base rate that would have been charged had no additional commission been paid (plus interest thereon).

Barclays/Clydesdale Decision DRN 4326581 and Black Horse Decision DRN 4188284 <https://www.financial-ombudsman.org.uk/decision/DRN-4188284.pdf> and <https://www.financial-ombudsman.org.uk/decision/DRN-4326581.pdf>.

### Processing of Legal Claims

As the laws regarding DCAs and failure to disclose commissions are now fully established, creating essentially strict liability on the lenders for failure to disclose a commission, the courts in the UK have become overwhelmed with PCP claims. This resulted in significant delays to Claimants.

In the UK, a Claimant seeking redress for a violation of the CCA can choose to have their claim adjudicated in the courts or by submitting a claim for resolution to the Financial Ombudsman Service (the “FOS”). The FOS is an independent public body established pursuant to the Financial Services and Markets Act of 2000. Typically, a Claimant must first submit a claim to the lender which must be accepted or rejected within 8 weeks. Thereafter, if rejected by the Lender, the Claimant may pursue resolution through the county courts or directly with the FOS.

In January 2024, the Financial Conduct Authority (‘FCA’) released a report identifying the significant number of DCA arrangements that have been used in the UK auto finance industry and the need to establish a regime for identification and resolution of the large number of such claims. This put a temporary hold on the requirement that lenders respond to claims within 8 weeks as it works to establish this regime. It anticipates that its findings will result in a new process for resolving these claims to be released in September 2024.

<https://www.financial-ombudsman.org.uk/consumers/complaints-can-help/credit-borrowing-money/car-finance/complaints-about-commission>

<https://www.fca.org.uk/consumers/car-finance-complaints>

As the fundamental basics of the structure is establishing whether or not an ‘unfair relationship’ existed through non-disclosure of commission, this explains the speed

the regulators have moved to prepare the industry for the payout of above to the consumer.

Further, this is supported by the reaction of the Banks in recent announcements of earmarking funds to pay such claims, see links below to recent articles.

Close Brothers scraps dividends amid motor finance probe 'uncertainty'

[https://www.thisismoney.co.uk/money/markets/article-13086401/Close-Brothers-scraps-dividends-amid-motor-finance-probe-uncertainty.html?ito=native\\_share\\_article-nativemenubutton](https://www.thisismoney.co.uk/money/markets/article-13086401/Close-Brothers-scraps-dividends-amid-motor-finance-probe-uncertainty.html?ito=native_share_article-nativemenubutton)

<https://www.theguardian.com/business/2024/feb/22/lloyds-car-loan-fines-bank-profits-fca>

It is thought that Lloyds Bank controlled up to 30% / 35% of the marketplace

<https://www.moneysavingexpert.com/news/2024/01/car-finance-misselling-claims-complaints-paused-regulator-concer/>

In summary, we have the regulators forcing the payouts on the back of an unfair relationship and the Banks reacting with earmarking of funds for the payout.

Funding now raised will to support the Law firms to acquire the cases to submit to the regulator for the September rollout of the scheme.

When reviewing the market overview document within this bundle please pay particular attention to the sheer size of the PCP market, backed up by above reactions of mainstream lenders and their dividend / earmarking of funds announcements.

There are literally millions of claims out there with some commentators stating this could exceed the PPI industry.

### **What does this mean for Woodville?**

As a litigation funder we have been at the forefront of this marketplace for over 2 years now, with the most knowledgeable and experienced law firms being leant to in the space. Having built this over the period, we are in the perfect position with the cases funded to fully take advantage of the imminent FOS scheme coming in September. In turn 2025 will be the best on record for all at Woodville Consultants Limited.