

## **MOTOR VEHICLE DEALERS — PURCHASE CONTRACTS**

### *Grievance*

**MRS L.M. O'MALLEY (Bicton)** [9.24 am]: My grievance today is to the Minister for Commerce and Industrial Relations. Recently a constituent of mine came to me following what she described as a distressing and embarrassing experience that she had had with a local car dealership. She explained that it had taken her several weeks to bring this issue to my attention as it had left her shaken and upset and, in her words, feeling like “such an idiot” for falling for a pressure sales tactic. My constituent has been left considerably out of pocket simply because she decided to visit a car dealership to test-drive a new car as part of her research, prior to purchasing a vehicle at some point in the future. This was the express purpose of her visit, which she voiced repeatedly with the car dealership’s sales and finance team members.

I thank the minister for listening to my grievance today, initiated by my constituent bringing to my attention her recent dealings with the local car dealership, where she felt intense pressure to sign a contract to buy a car she had no intention to purchase. My constituent has told me that it is important to her that this issue is brought to the minister’s attention for the following reasons. As a single parent, who visited a car dealership with her 10-year-old daughter with the intention only to test-drive a new car, she believes she was taken advantage of by the car salespeople and put in a position of signing a legally binding document that was not explained to her to buy a car that she could not afford. This type of sales tactic and business operation has left my constituent feeling distressed and angry. She wants to share her experience with the minister in the hope that this does not happen to other vulnerable people. She would like to see the introduction of “cooling-off period” legislation in Western Australia for the purchase of new cars. She is committed to calling out bad behaviour in the vehicle sales industry.

My constituent provided me with the following timeline of events. Earlier, this year she and her 10-year-old daughter visited a local car dealership to test-drive a new car. She was very clear with the car dealership salespeople that taking the car for a test drive was her only intention at that time. A salesperson soon approached my constituent and they went for the test drive. She told the salesperson that she was probably looking at purchasing a vehicle in the next 12 months. She asked whether the car dealership’s current sales offer would still be available at that time and was told that it would be. When they got back to the car dealership, the first salesperson introduced her to the next one. My constituent repeated to the second salesperson that she was looking at buying a car in the next 12 months, but not that day. He asked her why, to which my constituent replied that she was not really in a financial position to do so at that moment. He told her that that day was the last day of the sales offer. She questioned this as it was counter to what the first salesperson had told her. He said that there was some new legislation coming in regarding finance options, that it might not happen again in the future and that it would be a good idea to talk to someone that day about finance. My constituent was then introduced to a member of the finance team. Once again, she said that she was not looking at buying a car that day. He went through some very basic finance options. Things then happened really quickly. She was taken from desk to desk and office to office. The first salesperson asked whether she would be trading in her car and asked for the keys. Her car was taken for a trade-in evaluation. She was then taken back to the original salesperson, who produced a document on a yellow piece of paper for her to sign. The fine details of the document were not explained to her and the fact that it was a legally-binding document was not mentioned. She was not given a copy of this document. She was then taken to aftercare, where more items were added and she was asked to sign another document on yellow paper. Once again, no copy was provided. She went back to finance where lending options were presented. She said she could not afford a balloon payment at the end of the three years. The finance person said there were other options, but he could explain those later once finance was approved. Then he said congratulations and shook her hand. He took her over to a third salesperson, who shook her hand and said, “Congratulations! We got you over the line.” She was introduced to yet another member of the car dealership team, who also shook her hand, gave her his business card and said congratulations. She left the premises with no copies of any of the documents she had signed, with the only person able to verify her account being her 10-year-old daughter. Once home, she was able to process what had happened. She reflected on the fact that she had had no intention to buy a car that day and that she had no documentation, so did not even know what the total purchase price was.

She emailed the car dealership finance person that night stating that she had not received a copy of the contract and that she had felt pressured into buying the car and could not afford it. She was advised that she had signed a legally-binding contract and that was it. Further, as her finance had been approved, she was obliged to take and pay for the vehicle. He also said that her credit rating could be affected if she did not take the finance. He added that sometimes the best mistakes are the ones we make in a hurry and that she should google “buyer’s remorse”. At this point she felt that there was nothing she could do, and resigned herself to purchasing the car. Up to this point, no-one had responded to her concerns that she had not been given a copy of the contract.

My constituent decided to do some research into the regulations that deal with motor vehicle purchases and found the Motor Vehicle Dealers (Sales) Regulations (1974). She discovered that clause 1.1 of schedule 5 states that no

offer is made unless the purchaser is provided with a copy of this contract at the time it is signed by the purchaser. She sent an email advising the car dealership that in the absence of a copy of the signed contract, she would not be going ahead with the purchase.

According to my notes, the responding communication from the car dealership stated its position in part as follows —

Good Morning, and again thank you for your email. In regards to the copy of your contract, we can't comment on what you may or may not have done with your copy. Our process is the same for all customers. After completing any transactions, a copy is given to you.

We have been advised that we are entitled to expect delivery to take place or we will pursue you for liquidated damages as per clause 8.2 of the motor vehicle dealers act. This amount after calculation comes to \$6363 inclusive of GST. Your car will be ready as advised tonight at 4pm and should you not come in to take delivery, we will be sending you a 7 day letter which will advise you that we will be seeking the amount above and pursuing it with our legal team. Please advise your intentions.

What followed next was a series of negotiations between my constituent and the car dealership which resulted in her paying \$3 000 in liquidated damages to the car dealership. She is remarkably philosophical and is simply calling for change. Minister, she wants to know what is possible.

**MR W.J. JOHNSTON (Cannington — Minister for Commerce and Industrial Relations)** [9.30 am]: I thank the member for Bicton for the grievance. Her constituent should feel no embarrassment. Many people have been involved in pressure-selling circumstances where the outcome has not been what they wanted. I will ask my office to speak to the member's electorate office and perhaps get the constituent to talk to the Consumer Protection division. The first thing I will say is that it may well be that the contract was never valid. That is something we will have to look at. As the member says, there are restrictions on what is and is not a valid contract. The second question is that of liquidated damages. Dealers often say to purchasers that they will refer to the maximum liquidated damages that are available in these circumstances. However, the liquidated damages are limited to the actual losses of the dealer and that is often less than what they raise with customers. I am not saying that we can necessarily resolve this issue, but I certainly would like Consumer Protection to talk to the member's constituent, and I will make arrangements for that to happen.

The next matter is the broader issue of cooling-off periods. The member is right: at the moment Western Australia does not have cooling-off periods. A review of the Motor Vehicle Dealers Act 1973 was completed some time ago and was another one of the reviews that was sitting on my desk when I became Minister for Commerce and Industrial Relations.

**Mr R.R. Whitby:** Another one?

**Mr W.J. JOHNSTON:** It is another one, and it is huge. It is hundreds of pages long because it is very comprehensive.

**Mr D.J. Kelly:** Who was the review given to?

**Mr W.J. JOHNSTON:** Funnily enough, it was given to the former minister, Hon Michael Mischin. I did not make it a priority when I came to government. Obviously the implementation of our election commitments was my priority. However, I have subsequently dealt with the outcome of that review and given guidance to the department about how I want the outcomes of the review to proceed. I have attended the industry advisory committee that is operated by the department to let industry participants know that those outcomes are being pursued. I will get specifically to the question of cooling-off periods. I have also met with the Consumer Credit Legal Centre, which represents consumers in Western Australia, about these issues because obviously the centre is concerned about the unacted outcome of that review. I have told both the industry and the consumer lobby organisations that I am personally in favour of cooling-off periods. That will be included in the submission that goes forward for further consideration by government in the very, very near future. Once cabinet has considered that matter, a public announcement will be made. Let me make it clear: cooling-off periods are not the only issue covered by the review, but obviously it is an important issue covered by the review.

The member for Bicton raised also the interaction between finance and the sale of motor vehicles. Of course, the state government does not regulate the finance industry; that is regulated by the commonwealth government. As we all know, a royal commission is being held into the adequacy of that regulation. We all know, because it is in the newspaper every day and on our TV screens every night, that the regulation of the finance sector has been completely and utterly inadequate. One of the issues raised in the royal commission is insurance products and finance products being sold by dealers. Interestingly, the evidence provided to the royal commission is that dealers make more money out of the finance and insurance products than they do out of the underlying motor vehicle. Let me make it clear: in respect of the sale of new vehicles, it is an unbelievably competitive market and the margins obtained by motor vehicle dealers for the sale of new motor vehicles are unbelievably small, so it is natural that

they are looking for additional income streams, which is what has driven them to look for revenue out of insurance and finance products. Nonetheless, we end up with the situation in which the constituent found herself; that is, making two separate transactions—one for the finance product and a separate transaction for the motor vehicle. People see it as being one transaction but it is actually two. I really look forward to the outcome of the royal commission, because there needs to be increased transparency about that finance transaction. At the moment the dealer gets a commission from the finance product, but the consumer does not know about that commission, in the same way as with insurance commissions. I have had the benefit of being advised by the Motor Trade Association of Western Australia and others about the narrow margins, particularly for new vehicles. It is one of those strange things that there are greater margins on used vehicles than there are on new vehicles. I get that the economics of motor vehicle dealerships are very difficult, but that is not an excuse for the commissions from these finance products driving behaviour. We are very close to having a response to that review that sat on the previous minister's desk for two years. It will be publicly announced once it is approved by government. I am also looking forward to action by the commonwealth on the finance products, which is part of the problem raised by the member's constituent. I will make sure my office speaks to the member for Bicton's electorate office so that her constituent can speak to someone at Consumer Protection.