

The complaint

Mr C complains that a car that was supplied to him under a hire purchase agreement with Black Horse Limited, trading as Land Rover Financial Services, wasn't of satisfactory quality.

What happened

A new car was supplied to Mr C under a hire purchase agreement with Land Rover Financial Services that he electronically signed in January 2018. The price of the car was £51,854.20, he paid a deposit of £3,250 and agreed to make 48 monthly payments of £747.90 and a final payment of £20,978 for the car to be supplied to him.

There were some issues with the car so Mr C complained to Land Rover Financial Services in July 2020. It accepted that the car wasn't of satisfactory quality and said that it would collect the car and close the agreement. It also said that it would refund £3,754.95 to Mr C (based on a fair usage charge) and pay him £600 for the trouble and upset caused.

Mr C didn't accept those payments so the car wasn't collected from him and he complained to this service. Our investigator didn't recommend that his complaint should be upheld. She considered that the payments offered by Land Rover Financial Services (including £80 for the transfer of his private registration number) were reasonable (and potentially higher than she would have awarded).

Mr C has asked for his complaint to be considered by an ombudsman. He has responded to the investigator's recommendations in detail, including an analysis of the applicable sections of the Consumer Rights Act 2015, and says that his deposit, the cost of the tracker and personal registration number, and the impact on his credit rating haven't been considered. He says, in summary and amongst other things, that Land Rover Financial Services has accepted that the car wasn't of satisfactory quality, he's rejected the car, the agreement has been terminated so he has no further obligation to make payments and the car remains available for collection. He says that he's considering taking legal action against Land Rover Financial Services.

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.

Having done so, I agree with the conclusions reached by the investigator for these reasons:

- we offer an informal dispute resolution service and try to resolve complaints by customers about financial businesses by looking at what we consider to be fair and reasonable in the circumstances - although we do take account of applicable law and regulations we also consider the overall situation (so it's possible that a court would reach a different outcome to the decision that I've made);
- Land Rover Financial Services has accepted that the car wasn't of satisfactory quality so it offered to refund £3,754.95 to Mr C, to pay him £600 for the trouble and

upset caused and said that it would collect the car and end the agreement – so the total payment offered to Mr C by Land Rover Financial Services was £4,354.95;

- the refund of £3,754.95 was based on a fair usage charge of 45p for each of the 42,849 miles that had been driven in the car – which was then deducted from the 30 monthly payments that Mr C had made for the car (the refund should have been £3,154.94 but Land Rover Financial Services used a figure of £3,754.95 in its final response letter);
- in circumstances such as these I consider that it's fair and reasonable for a consumer to pay for the use that they've had from the car - but rather than using a rate per mile I would base the refund on the number of monthly payments;
- the permitted maximum mileage specified in the agreement was 81,667 and the final response letter referred to Mr C's mileage as being 42,849 so I consider that it would be fair and reasonable for Land Rover Financial Services to have kept the monthly payments that Mr C had made under the agreement as payment for that usage - but I would have said that it should refund to Mr C the deposit of £3,250 that he'd paid for the car (with interest) and that it should pay him some compensation for the distress and inconvenience that he'd been caused;
- I don't consider it to be likely that the total amount that I would have said it should pay to Mr C in these circumstances would be significantly more than £4,354.95 so I consider that Land Rover Financial Services' offer to pay him that amount was fair and reasonable in the circumstances;
- Mr C didn't accept that offer so the car wasn't collected from him and he's continued to use it - the car passed an MOT test in December 2020 when its mileage was recorded as 50,341;
- Mr C hasn't made any further payments for the car since Land Rover Financial Services' final response letter to him and earlier this month it said that his account was in arrears by £5,235.30 (which is seven monthly payments);
- I consider that it's fair and reasonable for Mr C to be required to pay for the use that he's had from the car since August 2020 and I would consider it to be fair and reasonable for Land Rover Financial Services to keep the monthly payments set out in the agreement for that period;
- Land Rover Financial Services has agreed to pay £80 to Mr C to reimburse him for the cost of transferring his private registration number;
- Mr C says that it should also reimburse him for the cost of insurance, road tax, new tyres, a tracker and "*shine protection*" for the car – but insurance, road tax and tyres are normal running costs of a car and I'm not persuaded that it would be fair or reasonable for me to require Land Rover Financial Services to reimburse him for those costs;
- it was Mr C's choice to pay for the "*shine protection*" and tracker for the car and he's had the benefit of them for more than three years and 50,000 miles so I'm not persuaded that it would be fair or reasonable for me to require Land Rover Financial Services to refund the cost of them to him;
- Land Rover Financial Services is required to report true and accurate information about Mr C's payment history to the credit reference agencies – Mr C hasn't made any payments to it for the car since August 2020 but still has it and has continued to use it and I'm not persuaded that there's enough evidence to show that it's reported untrue or inaccurate information to the credit reference agencies; and

- I consider that Land Rover Financial Services responded to Mr C's complaint fairly and reasonably and I'm not persuaded that it would be fair or reasonable for me to require it to take any action in response to Mr C's complaint.

Mr C says that he's considering taking legal action against Land Rover Financial Services but I suggest that he contacts it to try to arrange for the car to be collected and to agree a payment arrangement for the arrears on his account – it can then deduct the payments that it's offered to him from those arrears or make a payment to him.

My final decision

My decision is that I don't uphold Mr C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 5 May 2021.

Jarrold Hastings

Ombudsman