

## **The complaint**

Mr S complains that he was provided with a car which wasn't of satisfactory quality under a hire agreement provided by LEASYS UK LTD.

## **What happened**

Mr S obtained a car using a hire agreement provided by LEASYS in November 2019. The agreement was to run for 36 months and required an initial rental of £2,264.40 followed by 35 monthly payments of £754.80.

Mr S says that he reported a fault to the supplying dealer within three months whereby the car's entertainment system would shut down. He says he was told that the issue was related to the volume of the system being turned up too loud. The car was returned with the same issue a number of subsequent occasions in July, August and November 2019. I understand that the car had other issues relating to the folding mirrors and heated seats, but those issues were rectified and the infotainment system issue was not.

Unhappy that the issue had not been resolved, Mr S raised a complaint with LEASYS. It accepted the supplying dealer had attempted to rectify issues on a number of occasions. It said that the infotainment system was shutting down as a safety feature as a result of the volume being too high. It also said the other issues with the car had been rectified appropriately. It offered to refund Mr S one month's payment of £754.80 as a gesture of goodwill, and without accepting liability.

Mr S didn't think that was fair. He asked for a refund of payments made, a reduction in the price of the agreement or to reject the car.

LEASYS maintained that the infotainment system shutting down was a safety feature. It suggested that the car's manufacturer said that the issue could be rectified by fitting upgraded speakers, which had been offered at no cost to Mr S. It didn't accept Mr S's request to reject the car. It said the manufacturer was addressing Mr S's concerns and offered to pay Mr S £750 in recognition of his dissatisfaction and in full and final settlement of the complaint.

Mr S referred his complaint to this service. He said that further attempts by the manufacturer to fix the infotainment issue by way of replacing speakers had not worked, so the issue was still present.

Our investigator accepted that there was a fault with the car. They also accepted that the fault was likely present when the car was supplied to Mr S, so it likely wasn't of satisfactory quality as it was required to be under relevant legislation. However, they noted that the fault with the infotainment system didn't affect the main purpose of the car. So, they didn't think it'd be proportionate to allow Mr S to reject it.

They accepted the fault was frustrating for Mr S, but concluded that LEASYS' offer to pay Mr S £750 was fair and reasonable in the circumstances, particularly as the manufacturer appeared to be willing to continue to try to rectify the issue.

Mr S didn't agree. He said that the infotainment system was still regularly shutting down and the operation of the heated seats had been recently been affected by the issue. He asked for his payments to be refunded.

The case was passed to me and I issued a provisional decision on it. In summary, I said;

*In considering this complaint I've had regard for relevant law, legislation, guidance, standards, codes of practice and what I consider to have been good industry practice at the time.*

*Mr S was supplied with a car under a hire agreement, which is a regulated consumer credit agreement and one which we have the power to look into a complaint about.*

*The Consumer Rights Act 2015 (CRA) is relevant to this case. It implies that the supplier of goods – LEASYS in this case – was required to ensure the car was of satisfactory quality. In determining what satisfactory quality is, the CRA sets out factors which should be considered, such as the age and cost of the car when it was supplied. Satisfactory is defined as what a reasonable person would expect given the specific circumstances. Satisfactory quality also refers to a car's durability.*

*Mr S was supplied with a car which was a year old and he was required to pay more than £26,000 over the hire term, which is a significant sum. Given the car was relatively new, and I understand it to have been relatively low mileage for its age, I think it would've been fair for Mr S to have had an expectation that things on the car wouldn't break or fail for a reasonable period.*

*From what's been said by all parties involved in this case, I think it's clear that there's a fault with the car, specifically that the infotainment system turns itself off. I'm aware that initially the fault occurred when the volume was particularly high, so Mr S might still have had some use of the infotainment system by reducing the volume. However, Mr S has said that the fault occurs at lower volumes too.*

*Mr S has provided pictures and videos of the fault occurring. Additionally, I've seen a letter which Mr S provided from a franchised dealer for the manufacturer which accepts that a fault has reoccurred despite an attempt to repair it. I know there's been some dispute about whether or not this was a safety issue, but I think it's clear that letter accepts that it's a fault rather than a feature.*

*Like our investigator, I'm satisfied that this fault was likely present when the car was supplied to Mr S, as he reported the issue with a few months of taking ownership of the car. I'm also satisfied that the fault has persisted despite a number of attempts to rectify it.*

*The fault with Mr S's car hasn't prevented him from driving it. But it has meant that not all of the features of the car could be used, at least to the extent he wanted to use them. The car Mr S was supplied with is considered to be a prestige car, and I think that's reflected in its price. Such cars are likely to include additional features and technology, often operated by the infotainment system. The impact of the infotainment system shutting down is likely to affect a number of features. I think Mr S has made it clear from the outset that the use of the infotainment system is important to him, particularly listening to music. So, I think it's understandable that Mr S considers the car to be of unsatisfactory quality and wants to reject it.*

*Overall, I think it's fair to say that the use of the car has been impaired. So, I don't think it'd be fair to expect Mr S to pay the full rentals for the car because he's not had full use of it, in a way that he could reasonably expect to. Determining what an appropriate price reduction*

*for Mr S's impaired use would be isn't straight forward. I've considered the evidence both parties have provided me about the fault and its impact.*

*Taking everything into account, I think a reasonable price reduction would be 10% of the price of the rentals. So, I think LEASYS should refund 10% of the payments Mr S has made during the time that the fault was present, including his advance rental on a pro-rata basis.*

*Additionally, whilst I've seen evidence the manufacturer agreed to work towards a solution, it noted that things might take a while to resolve given the pandemic. That was in January 2021. Mr S has shown us that he had chased the manufacturer directly late last year but no resolution has been reached. Given that there's a fault with the car and it doesn't seem that there's a solution forthcoming, I think it'd be fair for Mr S to be allowed to now reject the car.*

*Lastly, our investigator said that LEASYS ought to refund Mr S the cost of any diagnostic reports he incurred. I agree, but Mr S hasn't said that was the case or provided any evidence of costs incurred. If Mr S provides evidence of those costs, I'll consider awarding those. I'm also aware that Mr S was given a courtesy car when he was without his, during investigations. If it comes to light that Mr S was without his car, or an alternative, due to investigations on the fault, I'll also consider making an award for loss of use based on the rental price Mr S paid. I'll otherwise set out my intended requirements of LEASYS below.*

My provisional conclusion was that I intended to require LEASYS to;

- end the agreement with nothing further for Mr S to pay from the date he accepts my subsequent final decision;
- collect the car without cost to Mr S;
- refund Mr S's advance rental payment of £2,264.40 on a pro-rata basis from the point the contract ends;
- refund Mr S 10% of the rental payments made towards the agreement in respect of impaired use from the date Mr S reported faults to the supplying dealer in March 2020 until the date Mr S accepts my subsequent final decision; and
- Pay Mr S simple interest at 8% per annum on the above sums from the date the payments were made until the date of settlement.

Both parties responded. LEASYS acknowledged the provisional decision and didn't add any further information. Mr S accepted but made this service aware that he had terminated the agreement and returned the car in December 2020. Given that we hadn't previously been made aware of that, I asked both parties to provide further information about the termination of the agreement. Mr S responded to say that he'd been charged an early termination fee but LEASYS didn't respond.

I issued a clarification covering a minor change to my requirements of LEASYS as well as a discrepancy with the dates I'd mentioned in my provisional decision. I said;

*Since issuing a provisional decision on this case it's been brought to my attention that the agreement was terminated in December 2021. As we weren't made aware of this before my provisional decision, I intended to require LEASYS to collect the car and end the agreement, but I'll now need to change what I require it to do.*

*The first point to clarify is the date the agreement was entered into – the agreement itself says November 2019, which I referenced in my provisional decision. Based on what's now*

*been said I understand that to have been an error, as both parties seem to agree it was actually November 2018. Due to this confusion, I also said that Mr S reported issues to the supplying dealer in March 2020, rather than 2019, which I now know is the case. However, this doesn't affect the outcome I intend to reach.*

*Mr S has said that the agreement was ended a month early, ahead of the original term. He said that he incurred a charge to end the agreement early. Given that Mr S's complaint is about the car not being of satisfactory quality and he had asked to reject it on that basis, I understand why he chose to end the agreement early. I also think that LEASYS ought to have allowed him to do so, without penalty. So, it should now repay any early termination fees or charges it asked Mr S to pay on termination.*

*The rationale behind my provisional decision otherwise remains the same. So, now that the car has been returned and the agreement has ended, I intend to require LEASYS to pay Mr S;*

- *10% of the payments he made towards the agreement in respect of impaired use from the date Mr S reported faults to the supplying dealer in March 2019.*
- *A pro-rata refund of his advanced rental payment – to be specific, for example, if the agreement was ended one month early then Mr S should receive 1/36th of the advanced rental payment as that payment covered the 36 month term of the agreement.*
- *A refund of any early repayment fees or penalties Mr S was charged on termination.*
- *Simple interest at 8% per annum on the above sums from the date the payments were made until the date of settlement.*

I encouraged both parties to respond, and highlighted that LEASYS hadn't responded to my previous request for information. Mr S responded accepting what I'd said, but LEASYS didn't respond.

### **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.

Given that neither party has provided any evidence or information which I consider materially new to the case, I find no reason to depart from my provisional conclusions set out above, and I now make those final.

### **My final decision**

For the reasons explained above, my final decision is that LEASYS UK LTD should pay Mr S;

- 10% of the payments he made towards the agreement in respect of impaired use from the date Mr S reported faults to the supplying dealer in March 2019.
- A pro-rata refund of his advanced rental payment – to be specific, for example, if the agreement was ended one month early then Mr S should receive 1/36th of the advanced rental payment as that payment covered the 36 month term of the agreement.

- A refund of any early repayment fees or penalties Mr S was charged on termination.
- Simple interest at 8% per annum on the above sums from the date the payments were made until the date of settlement.

*If LEAYSYS considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr S how much it's taken off. It should also give Mr S a tax deduction certificate if he asks/ask for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.*

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 24 March 2022.

Stephen Trapp  
**Ombudsman**