

The complaint

Mr K complains that a car that was supplied to him under a hire agreement with Lex Autolease Limited wasn't of satisfactory quality.

What happened

A new car was supplied to Mr K under a hire agreement with Lex Autolease that he signed in June 2018. There were some issues with the car's sat-nav and with oil dilution so the car was returned to the dealer for repairs. Mr K was told that the oil dilution issue was caused by his driving style. He complained to Lex Autolease about the car in May 2021 but it said there hadn't been excessive warranty repairs required to the car and it didn't support his request to end the agreement early.

Mr K wasn't satisfied with its response so complained to this service. He says that he would like Lex Autolease to terminate the agreement and refund his initial rental and monthly payments. Lex Autolease then offered to end the agreement early and to pay £250 to Mr K in recognition of the distress and inconvenience caused. Our investigator recommended that his complaint should be upheld. She was persuaded that the oil dilution issues related to the diesel particulate filter and that the car was of unsatisfactory quality. Mr K had said that he wanted to keep the car so she recommended that Lex Autolease should reimburse Mr K for the repair costs of £167.11 that he incurred in January 2020, with interest, and that it should pay him £300 compensation.

Lex Autolease says, in summary, that:

- it doesn't agree that there's a manufacturing defect with the car and there's no evidence of an issue with the diesel particulate filter;
- Mr K has confirmed that he doesn't do the necessary driving cycles to allow diesel particulate filter regenerations to complete and has acknowledged that he was provided with information about the diesel particulate filter system but didn't sign it;
- it has offered to terminate the agreement but Mr K says that he wants to retain the car; and
- it agrees to reimburse Mr K for some repair costs but has asked for an explanation of the increase in compensation from £250 to £300.

Mr K says, in summary, that:

- the car was mis-sold to him as the manufacturer knew about the fault; and
- if Lex Autolease had allowed him to return the car after discovering the problem with the diesel particulate filter he would have done so but now there's a shortage of cars and long delivery times so he's forced to keep the car until the car that he's ordered is delivered.

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 outcome recommended by our investigator for these reasons:

- Lex Autolease, as the supplier of the car, was responsible for ensuring that it was of satisfactory quality when it was supplied to Mr K - whether or not it was of satisfactory quality at that time will depend on a number of factors, including the age and mileage of the car and the price that was paid for it;
- the car that was supplied to Mr K was a new car and I consider that it was reasonable for him to expect that it would be free from even minor defects;
- satisfactory quality also covers durability which means that the components within the car must be durable and last a reasonable amount of time – but exactly how long that time is will also depend on a number of factors;
- there was an issue with the car's sat-nav that was repaired under warranty in June 2019 - but it was noted that the oil dilution was high and an oil and filter change was recommended and took place under the warranty;
- the oil and filter were changed again in January 2020 for which Mr K paid £167.11 and they were changed again in February 2022 at the manufacturer's cost and the car's mileage was recorded in February 2022 as 29,618 miles (there were also warranty repairs to the sat-nav and boot latch in January and November 2020);
- Lex Autolease says that it couldn't see that the requirements of driving a diesel car with a diesel particulate filter had been fully explained to Mr K and that the issues with oil dilution were caused by Mr K's driving style – but Mr K had driven the car for more than 29,000 miles between June 2018 and February 2022 and I'm not persuaded that it's likely that the issues with oil dilution were caused by Mr K's driving style;
- I consider it to me more likely than not that the oil dilution issues were caused by an issue with the car's diesel particulate filter that was either present or developing when the car was supplied to Mr K and which caused the car not to have been of satisfactory quality at that time;
- Lex Autolease has offered to end the agreement early but Mr K says that he wants to keep the car until the car that he's ordered is delivered to him;
- Mr K has had the car since June 2018 and he'd used it to drive more than 29,000 miles between then and February 2022 and he's continued to use it since then – I consider that it's fair and reasonable that he should pay for the use that he's had from the car so I'm not persuaded that it would be fair or reasonable for me to require Lex Autolease to refund to him all, or any part of, his initial rental or the monthly rentals that he's paid for the car – I consider that it's fair and reasonable for Lex Autolease to keep those payments as payment for the use that Mr K has had from the car;
- our investigator recommended that Lex Autolease should reimburse Mr K for the repair costs of £167.11 that he incurred in January 2020 and I find that it's fair and reasonable for it to reimburse those costs to him, with interest; and
- these events have clearly caused distress and inconvenience for Mr K and Lex Autolease has offered to pay him £250 compensation for that distress and inconvenience – but our investigator recommended that the distress and inconvenience that Mr K had been caused justified an award of £300 compensation – and I agree with our investigator that it would also be fair and reasonable in these

circumstances for Lex Autolease to pay £300 to Mr K to compensate him for the distress and inconvenience that he's been caused.

Putting things right

I find that it would be fair and reasonable in these circumstances for Lex Autolease to reimburse £167.11 to Mr K for the repair costs that he's incurred, with interest, and to pay him £300 to compensate him for the distress and inconvenience that he's been caused. I don't consider that it would be fair or reasonable for me to require Lex Autolease to pay a higher amount of compensation to Mr K or to take any other action in response to his complaint.

My final decision

My decision is that I uphold Mr K's complaint in part and I order Lex Autolease Limited to:

1. Pay £167.11 to Mr K to reimburse him for the repair costs that he incurred in January 2020.
2. Pay interest on that amount at an annual rate of 8% simple from the date of payment to the date of settlement.
3. Pay £300 to Mr K to compensate him for the distress and inconvenience that he's been caused.

HM Revenue & Customs requires Lex Autolease to deduct tax from the interest payment referred to at 2 above. Lex Autolease must give Mr K a certificate showing how much tax it's deducted if he asks it for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 25 August 2022.

Jarrold Hastings
Ombudsman