

## **The complaint**

Mrs R is complaining about the charges for damage when she gave her car back following a hire purchase agreement with Marsh Finance Ltd (“Marsh”).

## **What happened**

Mrs R entered into a hire purchase agreement with Marsh in January 2019 for a used car. The agreement was for around 5 years, but in March 2022 she told Marsh she wanted to give the car back and voluntarily terminate the agreement.

This termination was processed, and Marsh had the car collected and inspected for damage in April 2022. They identified three areas of damage that they said were outside of fair wear and tear, and would be chargeable:

- The front bumper was scratched and a charge of £141.50 to repair this was raised.
- All four wheels were scratched/scuffed, and a charge for £220 (£55 per wheel) was raised.
- There was a chip in the front windscreen and a charge of £334.77 was raised.

An invoice was raised therefore totalling £696.27.

Mrs R complained to Marsh, saying the car was damaged when she got it, and she didn't think the charges were fair. Marsh replied to her complaint in September 2022 with their final response letter (FRL), saying that they weren't upholding her complaint. They were satisfied the charges were fair and they didn't offer to reduce or remove the charges.

Unhappy with this, Mrs R brought her complaint to our service. An investigator her investigated it, and in their initial view, they agreed that the charges for damage to the front bumper and all four wheels were fair, but they said that as they could not see from the photo provided whereabouts on the windscreen the chip was, they didn't feel it was fair to charge for it.

Marsh came back to the investigator with another photo, showing that the chip was on the passenger side of the windscreen, but explained they still felt this was chargeable, as it would be in a driver's eyeline if they were watching for traffic merging onto a motorway from their left. The investigator didn't agree with this and said this didn't change their mind, and they didn't think it was fair to charge for this chip. Marsh didn't accept this and asked for an Ombudsman to make a final decision.

## **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.

I've considered all three items of damage charged to assess whether the charges have been raised fairly. I am satisfied that it's fair for Marsh to charge for damages which fall outside of

fair wear and tear, so I have considered what constitutes fair in this context.

In doing this, I've considered the British Vehicle Rental and Leasing Association (BVRLA) guidance. This guidance outlines what is considered acceptable wear and tear for cars being returned at the end of finance agreements. Alongside this, I've also taken into account that the car was already four years old when it was supplied. This means that some wear and tear may have already occurred, and the car would have been around seven years old when it was returned. BVRLA guidelines are more commonly used for new cars which are provided on finance agreements, so I have also considered the level of damage, and the likelihood that it might already have occurred before Mrs R acquired the car.

With regards to the Front bumper scratch, the BVRLA guidelines say that scratches of 25mm or less, where the primer or bare metal is not showing, are acceptable. In looking at the photograph of this scratch, there is no measuring tool alongside it, but I'd estimate it's at least 250-300mm long, and goes through the topcoat.

I don't think this is fair wear and tear, and I think it's extremely unlikely it was present when the car was supplied, as it's a large scratch. I'd have expected Mrs R to have noticed it and wanted it fixing if it was present at point of supply. As such, I am satisfied that the charge for £141.50 for repairing the scratch is fair.

With regards to the wheels, I have looked at all four photos provided and considered the BVRLA guidance. The guidance says that for damage to wheel trims and rims, scuffs up to 50mm of the total circumference of the wheel are considered fair wear and tear. The photos show that on each wheel, the damage is more than 100mm. On some wheels it's a lot more, covering a large amount of the circumference of the wheel.

I am satisfied that this damage on each wheel is well outside of fair wear and tear. I'm not persuaded it was likely to have been present when the car was supplied, due to the amount of damage. Again, if the wheels were damaged like this when Mrs R was acquiring the car, I would have expected her to highlight it, and to have wanted them repairing. I am satisfied that the total charge for repairs of £220 here is fair (£55 per wheel).

Finally, I've considered the chipped windscreen. The BVRLA guidelines are quite clear on this. If the damage is within the driver's line of vision and is more than 10mm, it is outside of fair wear and tear. The driver's line of vision is described in the guidelines as being an area *"290mm wide centred on the steering wheel"*.

The guidelines then say that if the damage is outside of this line of vision, but is *"in the area swept by the vehicle's wiper blades"*, 40mm is the acceptable fair wear and tear level, and anything larger than this would fall outside of fair wear and tear.

I've examined the photos provided. The first photo includes a measuring tool placed fairly close to the chip. It's not perfectly aligned to the measuring tool, but it appears to be roughly 20-30mm in size. Marsh have not suggested that they think it's more than 40mm and haven't provided any evidence that shows it's larger than 40mm. The second photo provided shows the chip is on the passenger side, so clearly not in the driver's line of vision as described in the guidelines.

As such, it should be considered as fair wear and tear. The chip is below 40mm in size and is not in the driver's line of vision. Marsh's argument about what constitutes the driver's line of vision isn't relevant, because BVRLA guidance clearly sets out, including with diagrams, that the area considered the line of vision is basically immediately in front of the steering wheel. This chip is a long way from this area. It is not fair therefore for Marsh to charge for this repair, so I will be asking them to remove this charge.

## **Putting things right**

I instruct Marsh Finance Ltd to remove the charge of £334.77 for a windscreen chip from the damages invoice. The remaining charges totalling £361.50 have been fairly charged and should be paid by Mrs R.

I don't know whether the invoice has been paid already. If it hasn't, Marsh Finance Ltd should amend the invoice and send a corrected invoice for £361.50 to Mrs R so she can pay it.

However, if the full invoice has already been paid by Mrs R, then Marsh should refund the £334.77 to Mrs R. They should also apply 8% simple yearly interest on this refund, calculated from the date Mrs R made the payment to the date of the refund.

If this is required, and Marsh Finance Ltd considers that it's required by HM Revenue & Customs to withhold income tax from the interest part of my award, it should tell Mrs R how much it's taken off. It should also give Mrs R a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

## **My final decision**

I am partly upholding this complaint and instruct Marsh Finance Ltd to amend the damages charges as described above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R to accept or reject my decision before 13 April 2023.

Paul Cronin  
**Ombudsman**