

The complaint

Mr M is unhappy with how Arval UK Limited (Arval) handled his request to voluntarily terminate a hire agreement. Mr M has been represented by Mrs M in this complaint. For ease of reference I'll refer only to Mr M.

What happened

In September 2017, Mr M was supplied with a new car through a hire agreement with Arval. The agreement was for 36 months, with an initial payment of £868.79, followed by 35 monthly payments of £289.60.

In July 2020 Mr M told Arval he wanted to terminate the agreement early. He said he was told the fee for early termination would be £144.80. He said they contacted him 12 months later and charged him further fees. He said he had never been made aware of these fees. He said Arval continued to pursue him for the fees, after they'd admitted they shouldn't have been charged.

Mr M said that he was happy to pay the early termination fee, but not the final months rental he'd been charged. He said this was because he'd returned all the relevant documentation on time, and he said Arval had processed this.

He was unhappy that it took Arval too long to admit they had issued an incorrect charge, and that they did not acknowledge the impact on him of their threats of third party debt recovery. He's unhappy that they took more than 12 months to arrange settlement of the account. He felt that they should waive the remaining charges due to the bad practice and their mis-treatment of him as a customer.

Arval said they had issued an incorrect invoice. They said they had now issued a credit to off-set the incorrect invoice, leaving Mr M with the original amount of £144.80 to pay. They said he'd since paid this. They'd also apologised to Mr M in November 2021 for not responding to the complaint he'd raised in August 2021.

Mr M brought his complaint to this service in October 2021 as he was frustrated with Arval's lack of response, and they were now threatening debt recovery action.

Our investigator considered it was reasonable for Arval to charge Mr M £144.80 to terminate the agreement early.

He didn't uphold Mr M's complaint about being invoiced incorrectly, and the length of time it took Arval to resolve this part of the complaint. He said this was because our service can't consider complaints about complaint handling.

Mr M didn't agree with the investigator. He said he did not dispute that an early termination fee was due. But he was unhappy with how Arval pursued him for an incorrect amount, their failure to correct this, and threatening to pass his details to a debt collector. He said this had a significant impact on him, especially due to the nature of his work.

Because Mr M didn't agree with the investigator, the matter was passed to me to make a final decision. I sent Mr M and Arval a provisional decision on 27 January 2023. In this decision I explained why I thought the complaint should be upheld. Here's what I said:

I have reached a different outcome to our investigator. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and what I consider was good industry practice at the time. Mr M was supplied with a car under a hire agreement. This is a regulated consumer credit agreement which means we're able to look into complaints about it.

Mr M now says that he does not dispute that an early termination fee is due. So I won't be considering that in this decision, other than to say I think the fee they've charged is fair and reasonable. I say that because it was clearly explained to Mr M when he asked about terminating the hire agreement early, and the amount they've charged him doesn't disproportionately compensate Arval for the loss they may have suffered from the contract ending early.

The key issue I have to consider is the distress and inconvenience caused to Mr M. Our investigator said he didn't consider this matter as he considered Arval's error and failure to resolve the matter speedily to be complaint handling. I disagree.

The rules covering what I can consider are set out in the Financial Conduct Authority Handbook. The rules, allow me to look at a complaint if it relates to an act or omission by a firm (in this case Arval) in carrying on one or more of the regulated or other covered activities, or any ancillary activity carried on by the firm in connection with them.

Carrying on an activity is described in the rules as, 'the manner in which a respondent has administered its business, provided that the business is an activity subject to the Financial Ombudsman Service's jurisdiction.'

In this complaint, Arval issued invoices to Mr M for a debt owed under the consumer hire agreement, and continued to pursue him for those debts. I've explained above why I can look at complaints involving this type of agreement. So I'm satisfied this complaint is not about Arval's handling of Mr M's complaint – it's about their pursuit of a debt due under the agreement, and that's an act they undertook when carrying out the regulated activity.

Mr M said this had a significant impact on him. I understand why. He'd been told that the cost of terminating the agreement early would be £144.80. And he proceeded on that basis. Yet 12 months later he received a notification that this amount had increased to £446.40. Mr M challenged this. He says Arval told him the charges looked to be incorrect but that he'd have to complain in writing. I don't have any evidence from Arval that confirms whether or not this was the guidance that he was given.

But Arval has acknowledged that they didn't respond to his written complaint he submitted on 2 August 2021. And I can see that they wrote to him on two occasions and emailed him on at least four occasions between 28 June 2021 and 18 October 2021 – all of this correspondence said he owed the higher amount of £446.40.

The letter Arval sent on 18 October 2021 threatened Mr M with third party debt recovery action if he didn't respond. I can understand how distressing this would have been for Mr M. And it would have been frustrating since he had disputed the amount with them for more than two months.

Arval didn't issue their final response to Mr M until 4 November 2021, two weeks after he'd told them he'd raised a complaint with this service. This was the first time they'd formally acknowledged that the correct amount he owed was £144.80.

The rules I referred to above give me the power to make a money award for distress and inconvenience arising from a firm's error.

I've explained above why I think Mr M would've been upset by the continued communication from Arval, pursuing him for an amount that he knew to be wrong, and then threatening debt recovery action. I've received no evidence or comments about why Mr M didn't pay the original amount when it was due in September 2020 – if he'd done that then I'd expect that this issue wouldn't have arisen.

Arval would have had to contact Mr M about the outstanding debt because he didn't pay the debt in October 2020, but they sent him an invoice for the wrong amount, and they've accepted that was the case. They continued to pursue him for a number of weeks after he'd made them aware of the error, escalating to the threat of passing the debt to a third party debt collector. For that I think an award of £250 reflects the distress caused to Mr M over a number of weeks.

Arval didn't respond to my provisional decision. Mr M accepted it. He also explained that the reason why the payment wasn't made in September 2020 was because Arval didn't issue an invoice until mid 2021, and he responded immediately. He said he paid as soon as he was invoiced for the correct amount.

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.

Neither party has provided new information or evidence that leads me to change my conclusions. So having thought about everything carefully again, I still think this complaint should be upheld. This is for the same reasons I explained in my provisional decision and which I've set out above.

Putting things right

To put things right, Arval should pay Mr M £250 to compensate him for the distress and inconvenience they caused him.

My final decision

For the reasons explained, I uphold Mr M's complaint about Arval UK Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 27 March 2023.

Gordon Ramsay
Ombudsman