

The complaint

Mr M complains about the quality of a car he acquired through a hire agreement financed by ALD Automotive Limited trading as Ford Lease (ALD).

What happened

In January 2022 Mr M acquired a new car through a hire agreement financed by ALD.

Mr M said the vehicle had a number of issues from the start, the most recent being that it cut out when pulling off at a junction, onto roundabouts and when he was on the motorway.

Mr M complained to ALD about the quality of the vehicle in July 2023. He said he wanted ALD to replace the vehicle.

ALD asked the dealership for information about the issues Mr M had experienced. The dealership confirmed they'd completed repairs to the vehicle, which included:

- Replacing lower arms in July 2022
- Replacing the drive shaft in September 2022
- Replacing the fuel sender and gearbox control unit in February 2023
- Repairing the wiring loom in May 2023 after investigation for the issue with the vehicle cutting out.
- Replacing the body control module in September 2023 after investigation for the issue with the vehicle cutting out.

The dealership told ALD that the issue was intermittent, and there were no fault codes recorded. They'd completed a test drive, and everything appeared to be working as it should. They said they'd supplied Mr M with a courtesy vehicle and tried to ensure this had a tow bar so he could continue to use the vehicle for his work.

Mr M brought his complaint to this service at the beginning of September 2023. He said he was still experiencing issues with the vehicle and ALD hadn't responded to his complaint.

ALD sent Mr M their final response to his complaint at the end of September 2023. They partially upheld Mr M's complaint. They said they weren't able to replace Mr M's vehicle, but they offered an early termination at no cost to Mr M as a gesture of goodwill. They also offered to refund one month's payment, which they increased to two monthly payments when Mr M said there were times when he wasn't supplied with a suitable courtesy car.

Our investigator gave her view that there was a remaining fault with the vehicle, and that it made it of unsatisfactory quality at the time it was supplied to Mr M. She said Mr M was entitled to his final right to reject the vehicle, and so ALD should collect it with nothing further for Mr M to pay, refund Mr M's advance payment on a pro rata basis plus interest, pay Mr M £300 compensation for any distress and inconvenience caused, and remove any adverse information from Mr M's credit file.

ALD didn't agree, they said they thought the offer they'd made was fair.

Mr M accepted the investigators recommendations but said that on two occasions he'd been provided with a courtesy car that didn't have a tow bar, which he needed for work and so some days he couldn't do his job.

As an agreement can't be reached, the case has been passed to me for a 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.

In considering what's fair and reasonable, I need to have regard to the relevant law and regulations. The agreement in this case is a regulated hire agreement – so we can consider a complaint relating to it. ALD as the supplier of the goods under this type of agreement is responsible for a complaint about their quality.

The Consumer Rights Act 2015 (CRA) is relevant to this complaint. It says that under a contract to supply goods, there is an implied term that the "quality of the goods is satisfactory"

To be considered "satisfactory" the goods would need to meet the standard that a reasonable person would consider satisfactory – taking into account any description of the goods, the price and other relevant factors. Those factors, in the case of a car purchase, will include things like the age and mileage of the car at the time of sale, and the car's history.

The quality of the goods includes their general condition and other things like their fitness for purpose, appearance and finish, safety and durability.

Here, the car was acquired new with no miles. Mr M had agreed to make an advanced payment of £4,127.65 and 35 regular payments of £458.63. with this in mind, I think a reasonable person would expect that the car could be used – free from even minor defects – for a considerable period of time.

I've seen evidence that Mr M experienced a number of issues with the vehicle, and repairs were completed on two occasions in 2022 and three occasions in 2023. There have been two instances where the vehicle has been investigated, and some work completed, in relation to it losing power. Mr M says this is still an issue with the vehicle, and the dealership confirm that it is intermittent in nature.

So, I'm satisfied that there is an ongoing fault with the car. Considering the car's age and mileage at the time it was supplied, and the serious nature of the fault with the vehicle cutting out, I'm persuaded that a reasonable person wouldn't expect the car to experience a fault of this nature so soon, and so I'm persuaded that the car was not reasonable durable, and therefore was not of satisfactory quality at the time of supply.

Putting things right

Having made that finding, I need to decide what, if anything, ALD should do to put things right.

Mr M has said that he'd like ALD to replace the car. I've considered this, but it would be difficult for ALD to provide Mr M with a like for like replacement, as they'd need to try and

find a vehicle with things like the same specification, mileage and features and so I don't think it's reasonable to ask ALD to replace Mr M's car.

ALD have offered early termination to Mr M as a gesture of goodwill.

The CRA sets out the remedies available where goods are considered not to be of satisfactory quality. All things considered; I think Mr M should be allowed his final right to reject the car. This means that the car is collected from Mr M, the finance agreement is brought to an end, and Mr M has his £4,127.65 advance payment refunded on a pro rata basis (plus interest). Any adverse information in relation to the agreement should be removed from Mr M's credit file.

Mr M has said that whilst he was provided with a courtesy car, and therefore kept mobile, most of the time, there were occasions where the car was investigated when a courtesy car wasn't available, and there were occasions when the courtesy car wasn't suitable for his needs, as it didn't have a tow bar. Mr M said he's self-employed, so this meant he couldn't complete his job on some days.

It doesn't appear to be in dispute that Mr M was without a suitable replacement vehicle on some occasions, but I haven't seen evidence of the timescales that Mr M wasn't kept mobile, and so I've considered the distress and inconvenience caused to him.

Mr M has been put to distress and inconvenience in being supplied with a car that wasn't of satisfactory quality. He's had to spend time taking the vehicle to be diagnosed and repaired on a number of occasions and there appear to have been times that the courtesy car didn't meet all of Mr M's needs. Our investigator recommended that ALD pay Mr M £300 compensation to reflect this. All things considered, I think £300 fairly reflects the distress and inconvenience caused to Mr M.

My final decision

My final decision is that I uphold this complaint, and ALD Automotive Limited trading as Ford Lease must:

- End the agreement with nothing further for Mr M to pay
- Collect the vehicle at no further cost to Mr M
- Refund Mr M's advance payment on a pro rata basis plus 8% simple yearly interest from the date of payment to the date of the refund.
- Pay Mr M £300 for any distress or inconvenience caused
- Remove any adverse information (if any was reported) from Mr M's credit file

If ALD considers that it's required by HM Revenue & Customs to withhold income tax from the interest part of my award, it should tell Mr M how much it's taken off. It should also give Mr M a tax deduction certificate if he asks 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 M to accept or reject my decision before 3 July 2024.

Zoe Merriman
Ombudsman