

The complaint

Mr K complains about information recorded by Lex Autolease Ltd (“Lex”) with one or more credit reference agencies.

What happened

In June 2020 Mr K entered into a car hire agreement with Lex. Under the terms of this agreement Mr K undertook to pay Lex an advance rental of £993.42 followed by 23 monthly rentals of £331.14. At the end of the hire agreement Mr K had the option of returning the car, hiring it under an informal extension (at a monthly cost of £358.73) or hiring it under a formal extension (cost unknown).

In May 2023 Mr K took the decision to enter into a 3 month formal extension of his hire agreement. Under the terms of this extension Mr K agreed to pay Lex £273.60 a month.

At the end of this 3 month formal extension Mr K had the option of returning the car, hiring it under an informal extension (at a monthly cost of £352.02) or hiring it under a further formal extension (cost unknown).

Mr K says he entered into a formal 3 month extension based on Lex advising him that this would involve no credit search (“search”) being recorded by it with credit reference agencies (“CRAs”).

As it turned out Lex recorded a search with CRAs.

In June 2023 Mr K complained to Lex about its decision to record a search with CRAs.

In June 2023 Lex issued Mr K with a final response letter (“FRL”). Under cover of this FRL Lex accepted it had advised Mr K that no search would be recorded with CRAs and for this it would be paying him £75. However, it went on to say that it was unable to remove its search recorded with CRAs.

In July 2023 Mr K advised our service that had he known Lex was going to record a search with CRAs he would have requested a 12 month formal extension to his agreement rather than a 3 month one.

In the same month Lex confirmed to our service that it believed it had, under cover of its FRL, “*offered a fair and reasonable outcome*” and to reiterate that it was unable to remove its search with CRAs.

In September 2023 one of our investigators issued a view on Mr K’s complaint to both parties. In summary she said that if and when Mr K requested a further formal extension to his hire agreement no search should be recorded with CRAs.

In October 2023 Lex confirmed to our service that it was prepared to remove its May 2023 search recorded with CRAs.

In the same month Mr K confirmed to our service that the outcome he was looking for wasn't the removal of Lex's May 2023 search with CRAs but for it not to record a search if and when he decided to formally extend his hire agreement for a second time.

In October 2023 Mr K formally extended his hire agreement for a second time and advised our service that what he was looking for, by way of a resolution to his complaint, was any search undertaken by Lex in respect of this extension not to be recorded with CRAs.

In the same month our investigator advised Lex of what Mr K had asked for, by way of a resolution to his complaint, and to advise it that in her view this was fair and reasonable and in line with what she had advised Lex (and Mr K) under cover of her view dated September 2023.

In the same month Lex advised our service that, for a number of reasons, it believed it had acted fairly in removing its May 2023 search with CRAs and saw no grounds for removing its October 2023 search with CRAs.

Because Lex, in essence, didn't agree with the investigator's view as to what it should do to fairly and reasonably compensate Mr K, Mr K's complaint has been passed to me for review and 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.

Having done so I can confirm that I've come to the same overall outcome as our investigator and for broadly the same reasons.

First, I would like to point out I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point, it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

Secondly, I would add that where the information I've got is incomplete, unclear or contradictory, I've to base my decision on the balance of probabilities.

Lex submits that it isn't persuaded that Mr K's decision to formally extend his hire agreement by 3 months, rather than say 12 months, was driven by it incorrectly advising him that it wouldn't record a search with CRAs, but rather it was driven by cost.

Now I accept that the hire cost per month was cheaper for a 3 month formal extension than a 12 month one. But given the difference in price between these two options and having considered everything the parties have said and submitted I can confirm that I find Mr K's submission that had Lex advised him, correctly, that it would record a search with CRAs he would have formally extended his hire agreement in May 2023 by 12 months rather than 3 to be both plausible and persuasive. I'm also mindful that Mr K has been consistent in his submissions to our service throughout the time his complaint has been with us.

In cases such as this, my role (as far as possible), is to direct a business to put its consumer in the position they would have been in had they been advised correctly.

As I say above, I'm satisfied that had Mr K been advised correctly he would have formally extended his hire agreement in May 2023 by 12 months, not 3. So therefore it's entirely fair, reasonable and appropriate that what should be recorded with CRAs is one search dated May 2023. In other words the October 2023 search should be removed.

For the sake of completeness and for the avoidance of any doubt I can confirm that I've considered whether Lex should have to do anything more to fairly and reasonably compensate Mr K. But having considered everything the parties have said and submitted I'm satisfied that if Lex has paid Mr K £75, as it said it would do, it need do nothing further.

My final decision

My final decision is that Lex Autolease Ltd must:

- pay Mr K, if it hasn't done so already, £75
- remove its October 2023 search recorded with credit reference agencies

I leave it to Lex Autolease Ltd to decide whether, on removal of its October 2023 search with CRAs, it wants to 'add back' its May 2023 search.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 16 March 2024.

Peter Cook
Ombudsman