

The complaint

Mr B complains about an invoice he received from Lex Autolease Ltd (“LAL”) and that payment in respect of it was collected from his bank account without his authority.

What happened

On 16 March 2022 Mr B entered into a hire agreement (“agreement”) with LAL for a new car.

On 18 November 2022 Mr B took delivery of the car subject to the above agreement.

On 3 November 2023 LAL invoiced Mr B £486, this sum being the difference between the estimated road tax cost of £186 used in setting the agreement terms in March 2022 and the actual cost incurred by LAL in taxing the car in November 2023 (for 2023/24) of £672.

On the same day LAL emailed Mr B to explain that the car had originally been listed, in March 2022, as costing under £40,000. But on registration, in November 2023, the DVLA recorded it as having a list price of just over £40,000 triggering, for years 2 to 6 of the car’s ownership, an additional road tax cost.

On the same day Mr B emailed LAL to complain about being invoiced £486 and to say he didn’t authorise collection of this sum from his bank account.

On 9 November 2023 Mr B emailed LAL to ask for confirmation that it wouldn’t collect £486 from his bank account.

On 20 November 2023 LAL confirmed to Mr B it wasn’t upholding his 3 November 2023 complaint.

On the same day Mr B complained to LAL that despite him not authorising collection from his bank account of £486 this had happened.

On 28 November 2023 LAL confirmed to Mr B it was upholding his 20 November 2023 complaint and that it had paid £60 to his bank account.

Unhappy with LAL’s responses to his complaint Mr B referred it to our service.

Mr B’s complaint was considered by one of our investigators who came to the view that LAL was entitled to invoice him £486. And having paid him £60 for collecting this sum from his bank account without his authority it need do nothing further.

Mr B didn’t agree and so his 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.

I would like to make clear that I've read the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point or particular piece of evidence, 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. Our rules allow me to do this, reflecting the fact that we are an informal free service set up as an alternative to the courts.

The first point I would like to address is the decision by LAL to collect from Mr B's bank account the sum of £486.

Now I appreciate that LAL collecting this sum would have caused Mr B some distress and inconvenience, particularly given that he had asked LAL not to do so and reasonably believed it wouldn't do so. But taking everything into account I'm satisfied that having paid £60 for this collection LAL need do nothing further. In other words, I'm satisfied that £60 represents a fair sum for LAL to have paid for the distress and inconvenience its collection of the sum of £486 from Mr B's bank account caused him.

I will now turn to LAL's right to seek payment of the sum of £486 from Mr B.

It's my understanding that Mr B doesn't dispute that the cost of taxing his car in 2022 was fairly and reasonably estimated by LAL, in March 2022, as being £186 and that the cost of taxing his car in 2023 was £486.

But notwithstanding what my understanding on this point is, I would like to make clear that I'm satisfied that the cost of taxing Mr B's car in 2022 was fairly and reasonably estimated by LAL, in March 2022, as being £186, and that the cost of taxing Mr B's car in 2023 was £486.

It's also my understanding that Mr B also doesn't dispute that under the terms of his agreement, which state at "2":

e) We will pay the cost of the annual excise duty required by law for the vehicle. The estimated cost of this duty for each year of the Minimum Period is included in your Rentals. If:

- (i) the duty for the Vehicle increases above what it is at the hiring start date, or*
- (ii) the actual duty for the Vehicle is greater than the amount of duty estimated by us at the time the Vehicle was ordered by you from us, or*
- (iii) any other tax is imposed that results in the duty being more than is due at the hiring date, you must reimburse us the difference on demand..."*

LAL was able to seek payment of the sum of £486 from him.

But again, notwithstanding my understanding on this point, I would like to make clear that I'm satisfied that under the terms of the agreement, everything else being equal, LAL was able to seek payment of the sum of £486 from Mr B on the grounds that the actual road tax, in November 2023, was *"greater than the amount of [road tax] estimated by [LAL] at the time the [car] was ordered by [Mr B]"*.

However, what Mr B submits is that LAL would have been aware, or should have been aware, that before he took delivery of the car (in November 2022) its list price had increased and increased by enough to cause the road tax payable in respect of years 2 to 6 on it to go up substantially.

And that had LAL advised him of the increased list price of the car (and the effect this would have on the road tax cost) before November 2022 he wouldn't have taken delivery of it and had it advised him of the increased list price (and the effect this would have on the road tax cost) shortly after he had taken delivery of it he would have had about a year to budget for the cost he was invoiced for in November 2023 rather than a just a couple of weeks.

I'm not necessarily persuaded that had Mr B been advised by LAL of the increase in the list price of the car before November 2022 that he wouldn't have gone ahead with the delivery of it or that he could have cancelled his order, but I need make no finding on this point. I say this because I'm simply not persuaded that LAL did anything wrong in not advising Mr B of the increase in the list price of the car and the effect that such an increase would have on the future cost of the car's road tax.

LAL had no control over when Mr B's chosen car would be available for delivery to him, any increase in the list price of it prior to delivery and whether the manufacturer or supplier would think it appropriate to advise it of any increase in the list price. And it's for these reasons that LAL:

- had to make the assumptions that it did in drafting Mr B's agreement (that being the list price was less than £40,000 and that the road tax payable in respect of it would be £186, in year 1), assumptions that I'm satisfied were appropriate, fair and reasonable
- felt it necessary to include the terms in the agreement that it did including, but not restricted to, term 2.

Furthermore, and I appreciate Mr B might not agree, he was always free to check the list price of the car in March 2022 and the list price of the car before he was committed to taking delivery of it. He was also free to enquire about the effect that any increase in the list price might have on his obligations going forward and to seek clarification about any agreement terms he was unsure about.

I appreciate that had LAL advised Mr B, in say early 2023, that it was likely that he would be obliged to pay it, on demand in November 2023, a not insignificant sum in respect of road tax he would have had more time to "*prepare*". But even if I was to agree with Mr B on this point, and for the avoidance of doubt I don't, I've seen no evidence that seeking payment from Mr B in the manner that it did when it did LAL has caused him a financial loss or a degree of distress and inconvenience that would, in itself, warrant me making a financial award in his favour.

So although I don't underestimate Mr B's strength of feeling, given what I say above, I can confirm I'm satisfied that LAL has done nothing wrong in the particular circumstances of this case.

My final decision

My final decision is I don't uphold this complaint.

My final decision concludes this service's consideration of this complaint, which means I'll not be engaging in any further consideration or discussion of the merits of it. However, I would point out that if Mr B doesn't accept my decision he will be free to pursue legal action against Lex Autolease Ltd if he wants to.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 1 November 2024.

Peter Cook
Ombudsman