

The complaint

Mrs M has complained about what happened after she rejected a car that she'd acquired using finance from Specialist Motor Finance Limited ('SMF').

Mrs M has been represented in bringing her complaint. But for clarity, I'll refer to all submissions made on her behalf, as having been made by her directly.

What happened

In July 2022, Mrs M entered into a hire purchase agreement with SMF for a car. Unfortunately, she experienced issues with it, and complained to SMF in January 2023. Ultimately, it was agreed that Mrs M could reject the car.

SMF explained that this would mean Mrs M would be refunded her monthly repayments, but that there would be a reduction for any damage, and also a charge of 25p per mile Mrs M had driven while she had the car. Any negative information regarding the agreement would also be removed from her credit file.

Mrs M was unhappy with these reductions/charges, and brought her complaint to our service.

One of our investigators looked into what had happened. In summary, he upheld the complaint in part. This was because he was satisfied that it was fair that SMF charge Mrs M for mileage, since she'd had use of the car. This came to £1,806.25. He also thought the damage fell outside of the British Vehicle Rental and Leasing Association ('BVRLA') guidelines for reasonable wear and tear, so it was reasonable to charge for this. He noted that the charge for damage was £1,474.36 (as some deductions were made).

However, he thought that SMF also needed to add 8% simple interest a year to the refunds of the monthly repayments. He also noted that Mrs M had needed to buy a second car because of the issues with the one provided by SMF, so SMF should refund her for the insurance costs for the second car, for the time period that both cars were in her possession.

Our investigator could also see that Mrs M had been paid £100 for the distress and inconvenience caused. He thought this should be increased to a total of £200.

Mrs M disagreed, and queried the images of the damage that were provided by the dealership.

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 agree with the conclusions reached by our investigator. I know this will be disappointing for Mrs M, but I'll explain why.

First, I would not usually agree that it's appropriate to charge for standard mileage, when a car is rejected. Rather, I'd expect to see a percentage deduction in the refund of the monthly repayments, to reflect both loss of use and loss of enjoyment of the car. However, I can see here that the mileage charge is actually significantly lower than the amount I'd have reduced the monthly repayments by. Accordingly, it's actually of financial benefit to Mrs M, so I shall agree that the charges for mileage still stand.

Typically, I'd also expect a refund of the deposit paid, which was £1,390. Here, I can see that this was applied to reduce the outstanding balance, so I agree that is fair.

However, SMF should have added 8% simple interest to the refunds of both the deposit and the monthly repayments, so it must recalculate the sum due to Mrs M. So far, she has received £542.51.

I've also taken into account the deductions for damage. I'm satisfied the damage falls outside the definition of reasonable wear and tear. But the issue is, when did the damage occur? I'm satisfied on balance that the evidence of the condition of the car provided by both parties is genuine. I know this will be frustrating for Mrs M, but I think the photos provided by the dealership are clearer than the evidence she's provided. So, on balance, I'm satisfied the damage was there when Mrs M returned the car. It's possible it happened while being transported back, but I have no evidence to suggest this to be the case. So, I'm not persuaded that the damage wasn't there when Mrs M handed the car back.

I also agree that Mrs M was put in the position of needing to pay insurance for two cars, because of her original car being faulty. So, she should be refunded for the insurance she paid for the first car, for the period she was paying both. I say this because it's the finance agreement for the first car that's being unwound. In this respect, my decision differs very slightly from our investigator's opinion. Mrs W should also be refunded any admin fee she had to pay for cancelling this first policy, for the same reason.

Finally, I'm aware that SMF has already paid Mrs M £100 compensation for the upset caused. I think this should be increased by a further £100, taking everything into account, as Mrs M has had to spend considerable time chasing for updates, and the matter has affected her health.

Putting things right

To put things right, SMF should:

- recalculate the refund due to Mrs M, paying her the additional amount due, to take into account that:
 - 8% simple interest a year should have been added to the refund of the deposit, from the date Mrs M paid the deposit, to the date SMF paid her the £542.51; and
 - 8% simple interest a year should have been added to the refund of her monthly repayments, from the date of each repayment, to the date SMF paid her the £542.51;
- refund Mrs M for the insurance premiums she paid for the first car (i.e. the car that was rejected), for the period she was in possession of both cars, adding 8% simple interest a year, from the date of each payment, to the date of settlement – subject to receiving reasonable proof of this cost. It may pro rate this refund for periods of less than a full month;
- refund Mrs M for any admin fee she incurred for cancelling the policy for the first car, adding 8% simple interest a year, from the date of payment to the date of settlement – subject to receiving reasonable proof of this cost;
- pay Mrs M a total of £200 compensation for the upset caused (deducting any amount already paid); and

- remove any negative information regarding the agreement from Mrs M's credit file, and mark the agreement as settled, as at the date the rejection was agreed.

My final decision

It's my final decision to uphold this complaint in part. I require Specialist Motor Finance Limited to take the actions set out in the section above, entitled 'Putting things right'.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 9 January 2025.

Elspeth Wood
Ombudsman