

## **Complaint**

Mr K complains that Lex Autolease ("Lex") unfairly failed to notify him of the additional tax charge that it passed onto him as part of a hire agreement.

## **Background**

In March 2022, Mr K signed a regulated hire agreement with Lex in order to hire a brand-new car. This hire agreement was to last for 36 months from the date that the car was delivered. The agreement stated that Mr K would pay an initial rental of £2,201.76 followed by 35 monthly rentals of £366.96. These rentals included an amount to pay the expected annual vehicle excise duty ("VED") due on the car over the three years.

While Mr K entered into the agreement in March 2022, the car wasn't delivered straight away. The car was ordered in March 2022 and it did not arrive until October 2022. There isn't anything unusual about this and Mr K knew that there would be a wait while the car was built by the manufacturer. Mr K took delivery of the car when it arrived in October 2022 and the hire agreement commenced at this point.

In September 2023, Mr K received a road tax invoice from Lex. This invoice was for £486. The £486 was made up of an additional road fund licence charge of £405 which was levied by the government when the car was taxed for the year and VAT of £81.

Mr K was unhappy with this charge and complained saying that his monthly rentals were supposed to cover the VED that needed to be paid over the term of the agreement and he wasn't told about any additional charges. Lex didn't uphold Mr K's complaint. It said that Mr K's monthly rental charges covered the standard element of the VED. However, as the car Mr K acquired had a list price of over £40,000.00 at the time that it was first registered, it incurred an additional VED amount of £405. Mr K remained dissatisfied and referred his complaint to our service.

Mr K has referred to the actions of the broker which arranged his acquisition of the car as well as arranged his hire agreement. I know that he feels that Lex's actions contravene his agreement with the broker. However, as Mr K has complained about Lex, I can only consider whether it did anything wrong. Should Mr K be dissatisfied at the broker's actions, he would need to make a complaint to it as it is a regulated entity in its own right. So we've only considered whether Lex acted fairly and reasonably to Mr K.

One of our investigators considered Mr K's complaint. She thought that Lex hadn't acted unfairly as the additional VED was payable in this instance and she agreed that the terms of the hire agreement allowed Lex to pass on any costs that it hadn't anticipated when the agreement was signed. So the investigator didn't recommend that Mr K's complaint be upheld.

Mr K disagreed with the investigator's assessment and asked for an ombudsman's review of his complaint.

## My findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In deciding this complaint I've taken into account the law, any relevant regulatory rules and good industry practice at the time. I'm satisfied that Mr K's complaint relates to charges due under a regulated hire agreement, which we are able to consider complaints about. Therefore, I'm satisfied that I am able to consider Mr K's complaint on this basis.

Having carefully considered matters, I've not been persuaded to uphold Mr K's complaint. I'll explain why in a little more detail.

### *Is the additional VED due on the car?*

I think that it's worth me starting by saying that I'm satisfied that the list price of the vehicle Mr K acquired, was £41,225.00 at the time it was first registered in October 2022.

The gov.uk website on vehicle tax rates<sup>1</sup> provide the details on vehicle tax rates for the tax year 2024/2025. There is a section regarding vehicles which were registered on or after 1 April 2017 and would have cost more than £40,000.00 at the time of acquisition. It states:

#### ***"Vehicles with a list price of more than £40,000***

*You have to pay an extra £410<sup>2</sup> a year if you have a car or motorhome with a 'list price' of more than £40,000. You do not have to pay this if you have a zero emission vehicle.*

***The list price is the published price of the vehicle before it's registered for the first time. It's the price before any discounts are applied*** [my emphasis].

*You only have to pay this rate for 5 years (from the second time the vehicle is taxed)."*

Bearing in mind the above and as the list price of Mr K's vehicle is clearly over £40,000.00, I'm satisfied that the car does attract the additional VED payment Lex has passed on.

### *Is Lex entitled to pass on the cost of the additional VED to Mr K?*

As I've previously explained, Lex has said that when Mr K signed his agreement, the list price of the car was estimated to be under £40,000.00 – I understand that it was estimated to be £39,980.00 at this time.

So when it agreed the terms of the hire agreement with Mr K, in March 2022, Lex did not expect the car to attract the additional VED (as a result of having a list price of over £40,000.00 at first registration) and this was not factored into the rentals.

Furthermore, section 2 of Mr K's hire agreement is entitled '**YOUR PAYMENTS AND WHAT THEY COVER**'. Subsection (e) refers to VED. Section 2(e) states:

*"We will pay the cost of the annual vehicle 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:*

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<sup>1</sup> <https://www.gov.uk/vehicle-tax-rate-tables>

<sup>2</sup> As this is the 2024/2025 rate, this is the reason for it being slightly higher than the amount on Mr K's invoice in October 2023.

- (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***  
[my emphasis]
- (iii) *any other tax is imposed that results in the duty being more than is due at the hiring start date, you must reimburse us the difference on demand. But, if the cost of the duty or tax decreases, we will pay you the amount of the decrease for the relevant year. Further charges/refunds may apply in later years."*

I appreciate that Mr K says that the terms of the hire agreement are incompatible with the terms of the agreement he signed with the broker. However, as Mr K is complaining about Lex's actions, it is the terms of its hire agreement with Mr K that I need to consider here. Indeed, it is Lex exercising, or having the right to exercise, the owner's rights and duties under a regulated consumer hire agreement which is the credit related regulated activity that permits me to look at Mr K's complaint about Lex.

So if Mr K is unhappy with the broker's conduct, or feels that it breached its agreement with him, then this is a matter he needs to take up with it in the first instance.

In relation to whether Lex is entitled to pass on the cost of the additional VED, the information provided to us indicates that the list price of the car increased to £41,225.00 in July 2022. This was in between the period between the car being ordered and it being first registered.

As the cost of the additional VED means that the VED now payable is higher than what was estimated and what was included in the monthly rentals, I am satisfied that Section 2(e)(ii) of the terms and conditions of the hire agreement permit Lex to recover the additional VED from Mr K and ask him to pay the difference.

*Should Lex have notified Mr K of the additional VED sooner than it did and would this have made a difference to him entering into and continuing with his hire agreement?*

In reaching my conclusions, I accept the possibility that Lex did find out about the change in the list price of the car and the impact this would have on the additional VED sooner than when it sent Mr K the first invoice in September 2023. I'm also prepared to accept the possibility that Lex became aware of this at the time the car was first registered in September 2022. Although having seen a copy of the 'Confirmation of Registration Details' document, I cannot see that the list price of the car is on it.

I don't completely discount the possibility that Mr K would have decided against proceeding with the agreement if he'd been told about the additional amounts he'd have to pay on or around when he took delivery of the car. However, I'm required to consider what I think is more likely than not to have happened, in light of all the available circumstances.

In doing so, I think it's worth me emphasising that the list price of the car was determined by the manufacturer and not Lex. As I've set out above in the extract from the gov.uk website, the need to pay the additional tax was dependent on the manufacturer's published list price being over £40,000.00 before any discounts or deals etc are applied. I'm therefore satisfied that the additional VED will have been due on this car irrespective of where the vehicle was acquired from. And Mr K will have had to pay the additional VED to drive the particular make and model of car he has, regardless of where he sourced it from.

I accept that Mr K is unlikely to have been aware of the additional VED he needs to pay at the time he ordered the car. I also understand how disappointing it will have been for Mr K to

find out he'd have to pay more. However, having considered all of the circumstances, I'm not persuaded that it is more likely than not that Mr K would have decided against taking delivery of the car and entering the agreement had he been told about the change in the manufacturer's list price, or the effect this would have on the VED he'd have to pay, when the car was delivered in September 2022.

In my view, Mr K is likely to have been annoyed, but given he wanted the car and the only way to acquire it was by agreeing to pay the additional VED, I think he more likely than not, albeit begrudgingly, would have agreed to do so and gone ahead with the agreement.

So overall and having considered everything, while I can understand Mr K's sentiments and appreciate why he is extremely unhappy, I'm nonetheless not upholding this complaint. I appreciate this will be very disappointing for Mr K. But I hope he'll understand the reasons for my decision and that he'll at least feel his concerns have been listened to.

### **My final decision**

For the reasons given above, I'm not upholding Mr K's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 12 March 2025.

Jeshen Narayanan  
**Ombudsman**