

The complaint

Mrs Y complains that a charge made by Lex Autolease Ltd trading as Lex Autolease (“Lex”) on a hire agreement is unfair.

What happened

Mrs Y hired a car from Lex in March 2022 although the car wasn’t supplied until May 2023. In March 2024 Lex issued an invoice to Mrs Y for an additional amount of Vehicle Excise Duty (“VED”) that it said hadn’t been accounted for in the monthly rental payments it had calculated when the agreement had been signed.

Mrs Y complained to Lex about the additional charge. She said she had been given information that showed the P11D value of the car (which includes things such as delivery and VAT) had been quoted as £39,480. So she said the car shouldn’t have attracted the additional rate of VED that applied to cars with a list price of more than £40,000.

Lex told Mrs Y that it had no control over the list price of the car. It said that price was set by the manufacturer and notified directly to the DVLA. It said that the list price of Mrs Y’s car had been increased between her agreement being signed, and the car being registered. It said that it was the price at the time of registration that determined whether the additional VED was payable. And since that additional VED hadn’t been incorporated into the monthly rentals that Mrs Y was being charged, Lex said the terms of her hire agreement allowed it to pass the cost onto her. Unhappy with that response Mrs Y brought her complaint to us.

Mrs Y’s complaint has been assessed by one of our investigators. She thought that Lex had correctly assessed the VED that was payable on Mrs Y’s car. And she found that the terms of hire agreement allowed Lex to pass on any costs that it hadn’t expected when the agreement was signed. So whilst the investigator had sympathy for the position Mrs Y found herself in, she didn’t think Lex had done anything wrong.

Mrs Y didn’t agree with that assessment. So, as the complaint hasn’t been resolved informally, it has been passed to me, an ombudsman, to decide. This is the last stage of our process.

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 deciding this complaint I’ve taken into account the law, any relevant regulatory rules and good industry practice at the time. I have also carefully considered the submissions that have been made by Mrs Y and by Lex. Where the evidence is unclear, or there are conflicts, I have made my decision based on the balance of probabilities. In other words I have looked at what evidence we do have, and the surrounding circumstances, to help me decide what I think is more likely to, or should, have happened.

At the outset I think it is useful to reflect on the role of this service. This service isn't intended to regulate or punish businesses for their conduct – that is the role of the Financial Conduct Authority. Instead this service looks to resolve individual complaints between a consumer and a business. Should we decide that something has gone wrong we would ask the business to put things right by placing the consumer, as far as is possible, in the position they would have been if the problem hadn't occurred.

Mrs Y was supplied with a car under a hire agreement. This is a regulated consumer credit agreement which means we're able to look into complaints about it. The agreement sets out the responsibilities of both parties and, of relevance to this complaint, it explains what payments Mrs Y must make. In particular section 2(e) is applicable here. That says;

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:

- (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 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.

Lex says that when it offered the agreement to Mrs Y in March 2022 the list price of her car was less than £40,000. That appears to be supported by the information Mrs Y has provided to us from the broker she used that shows the P11D value of the car to be £39,480. And since the P11D value of the car also includes delivery I would expect that to mean the list price was actually a little lower.

Lex has also provided us with a copy of the list prices of cars from this manufacturer that applied at the time Mrs Y's car was registered and supplied to her. That information shows that the prices were valid from 3 April 2023. That would seem to suggest that a price change had taken place around that time – just a few weeks before the car was supplied to Mrs Y. The manufacturer's information shows the list price of the car that was supplied to Mrs Y as being £41,275.

I am satisfied that, at the time it concluded the hire agreement with Mrs Y, Lex did not expect the car to attract the additional amount of VED. And I am satisfied that the changes in the list price before the car was registered mean the additional VED is payable. So since the rate of VED is greater than that originally estimated by Lex, I think the terms of the hire agreement reasonably allow it to ask Mrs Y to pay the difference.

I have thought carefully about whether Lex treated Mrs Y fairly in not bringing that additional charge to her attention much sooner – and in particular when the car was supplied. On balance I'm not persuaded that would be a reasonable expectation of Lex.

VED rates can change at any time following announcements made by the Government in budget statements. So it is only at the point that VED becomes payable that Lex will be able to reasonably consider whether the actual charge is above the estimate it made when a car was ordered. Here the first additional VED charge did not become due until a year after the car had been supplied to Mrs Y. So I am satisfied that is the point at which Lex would have reasonably become aware of the difference and made the request to Mrs Y for her to pay the additional charge. And, as the invoice sent to Mrs Y explains, the VED is part of her contract charges so it is subject to VAT. That is not something that Lex has any control over.

I understand how disappointing this decision will be for Mrs Y. Ultimately I accept that she might not have ordered her car had she been aware of the additional VED charge. But at the point the car was ordered, and potentially at the point at which it was supplied to her, Lex would not have been aware of the manufacturer's changes to the list price. So it would not have been able to revise the monthly charge to allow Mrs Y to make an informed decision on the additional costs.

My final decision

For the reasons given above, I don't uphold the complaint or make any award against Lex Autolease Ltd trading as Lex Autolease.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs Y to accept or reject my decision before 10 December 2024.

Paul Reilly
Ombudsman