

The complaint

Mr W is unhappy that a car supplied to him under a hire agreement with Lex Autolease Ltd was of an unsatisfactory quality.

What happened

In August 2023, Mr W was supplied with a new car through a hire agreement with Lex. He paid an initial rental of £2,831.65 and the agreement was for 36 months; with 35 monthly payments of £314.63, which included a service rental (maintenance) plan.

Mr W wasn't happy with the quality of the car when it was supplied to him – he said there were scratches on the paintwork, drip marks on the mudguard, and rust on the exhaust. A few days later he experienced an issue with the steering – the wheel locked when he was attempting to turn left. He complained to Lex on 23 August 2023, asking to reject the car.

The car was inspected on 8 September 2023, and no faults were found. So, Lex didn't uphold Mr W's complaint. Mr W didn't think the inspection that had been carried out was adequate and he reported the matter to the DVSA. Because Mr W had already asked to reject the car, he didn't make any payments to Lex. As a result they repossessed the car in November 2023, reporting both the missed payments and the resulting default to the credit reference agencies.

Unhappy with what had happened, Mr W referred the matter to the Financial Ombudsman Service for investigation. In doing so Mr W also said that Lex hadn't co-operated with the DVSA, so had stopped an adequate inspection of the car from taking place; that Lex had allowed a potentially faulty car to be sold on; and that he was suffering a financial loss as a result of the negative information on his credit file.

Our investigator said that, while Lex had agreed to fix the bodywork defaults with the car, there was no evidence to support the steering was faulty. And an independent inspection confirmed this. So, the investigator didn't think Lex had done anything wrong by not allowing rejection. The investigator also said that, as Mr W had failed to maintain payments, Lex acted reasonably by defaulting and terminating the agreement, repossessing the car, and reporting this to the credit reference agencies.

Mr W didn't agree with the investigator's opinions, and he provided extensive comments explaining why. In summary, Mr W said that another car in Canada had developed the exact same fault as the car supplied to him; that he believed the inspection of the car in September 2023 was inadequate; and that he believed he had the right to reject the car, and therefore no payments were due under the agreement. He also thought that the investigator believed that Mr W, his passenger at the time the steering locked, the DVSA who were considering his complaint, and the manufacturer, were fabricating everything.

Because Mr W didn't agree, this matter has been passed to me to decide.

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've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome. Where evidence has been incomplete or contradictory, I've reached my view on the balance of probabilities – what I think is most likely to have happened given the available evidence and wider circumstances.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Mr W was supplied with a car under a hire agreement. This is a regulated consumer credit agreement which means we're able to investigate complaints about it.

The Consumer Rights Act 2015 ('CRA') says, amongst other things, that the car should've been of a satisfactory quality when supplied. And if it wasn't, as the supplier of goods, Lex are responsible. What's satisfactory is determined by things such as what a reasonable person would consider satisfactory given the price, description, and other relevant circumstances. In a case like this, this would include things like the age and mileage at the time of sale, and the vehicle's history.

The CRA also implies that goods must conform to contract within the first six months. So, where a fault is identified within the first six months, it's assumed the fault was present when the car was supplied, unless Lex can show otherwise. So, if I thought the car was faulty when Mr W took possession of it, and this made the car not of a satisfactory quality, it'd be fair and reasonable to ask Lex to put this right.

Before I explain why I've reached my decision, I think it's extremely important for me to set out exactly what I've been able to consider here. While I recognise that Mr W has made reference to a case in Canada, and a car that had a similar fault, a crucial part of our service is that we consider each complaint on its own merits and its own individual circumstances. So, my decision will focus entirely on the car supplied to Mr W, and it won't be impacted in any way by any issues with any other cars, no matter how similar Mr W feels the situation is.

My decision will also focus on what happened when the car was in Mr W's possession. While I appreciate his comments about inspections he feels should have happened after the car was repossessed, and about what happened to the car once it had been repossessed, these don't have any impact on the matter in hand – what happened when the car was in Mr W's possession. As such, my decision will not touch on these points.

Finally, I also want to make it clear that the Financial Ombudsman Service is an alternative to the courts. And because of this, we don't make legal rulings or determinations. So, while we can consider legal acts and legislation when considering this matter, ultimately any decision I make centres around the fairness and reasonableness of Lex's decisions, and the service they provided when making these.

So, although I note Mr W made some representations centring around what he considers to be relevant case law; I won't be commenting on these. Should Mr W want to pursue these representations further, he would need to do this through the relevant legal channels.

As I see it, there are two main issues here – the quality of the car when it was supplied to Mr W, and his right of rejection under the CRA. And these two issues are inexorably linked.

As I've explained above, the CRA says goods must be of satisfactory quality when supplied. And, if they aren't, under certain circumstances, the consumer has the right of rejection. Section 24(5) of the CRA says "*a consumer who has ... the right to reject may only exercise [this] and may only do so [if] after one repair or replacement, the goods do not confirm to contract.*" This is known as the single chance of repair. However, section 22(3) of the CRA also allows the consumer the short-term right to reject the goods within 30-days. But this short-term right to reject is only available if the goods are not of a satisfactory quality.

It's not disputed that Mr W asked to reject the car within the first 30-days. But for this right to be afforded to him, the car supplied needed not to be of a satisfactory quality. As such, I think Lex acted reasonably by having the car independently inspected – if that inspection confirmed there was a fault with the car that made it not of a satisfactory quality when it was supplied, then Mr W would have the short-term right to reject.

However, the inspection of the car didn't find any fault, with a test drive not being able to replicate the steering issue Mr W had complained of. I've noted Mr W's comments that the inspection was inadequate as (a) there was no complete strip-down of the steering to identify any potential mechanical or electrical issues, and (b) it's not reasonable to rely on fault codes because these only look for what they've been programmed to check, and the fault with the steering may not be covered by any programmed fault code. I don't agree with this. As there were no indications of a fault with the car i.e., the steering was acting as expected during testing, there was nothing to indicate that any further, and more invasive, testing would be needed.

I'm therefore satisfied that Lex were reasonable to rely upon the independent testing. And, because no faults were found, the car wasn't of an unsatisfactory quality when it was supplied. Therefore, Mr W didn't have the short-term right to reject under section 22 of the CRA.

Had Mr W continued to use the car and found that the steering issue he'd complained about reoccurred, then I would have expected Lex to take further action, including additional testing. And, if a fault was found under these circumstances, then I would have expected them to consider rejection of the car.

However, this wasn't what happened. Instead, Mr W stopped using the car, and stopped paying the hire payments. As such, and in line with the agreement they had with Mr W, Lex pursued him for the missing payments, eventually terminating the agreement and repossessing the car. In doing so, they also reported an accurate status of Mr W's account to the credit referencing agencies, as I would expect them to do. Because of this, and while I appreciate this will come as a disappointment to Mr W, I don't think that Lex have done anything wrong in the circumstances, and I won't be directing them to do anything more, including amend the information they've reported.

My final decision

For the reasons explained, I don't uphold Mr W's complaint about Lex Autolease Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 27 February 2025.

Andrew Burford
Ombudsman