

## The complaint

Mrs S complains about a charge that's been made by Lex Autolease Limited, trading as Black Horse, for extra mileage when she returned a car at the end of a hire agreement. A complaint has also been made that her husband was able to amend the agreement and about the service that's been received from Lex Autolease. Mrs S's husband is also involved in her complaint.

## What happened

A car was supplied to Mrs S under a hire agreement with Lex Autolease in February 2020. The minimum hire period was 48 months but the agreement was amended in May 2023 to reduce the term to 41 months. Mrs S returned the car when the amended agreement ended and its mileage was 23,317 miles. Lex Autolease said that the total mileage allowance had been reduced to 20,500 miles and the mileage was 2,730 miles more than that so it sent Mrs S a mileage termination invoice for £943.17.

Mrs S and her husband complained to Lex Autolease about the excess mileage charge and other issues and her husband said that he amended the agreement so Mrs S hadn't legally agreed to the amendments. It didn't uphold the complaint about the excess mileage charge or the other issues but it apologised for the poor manner in which a call was handled and it paid £25 to Mrs S's bank account as an apology for its poor service.

Mrs S wasn't satisfied with its response so complained to this service. Her complaint form says: *"We handed back the car early and when asked about shortening the deal we were asked for the new mileage. We have been under the mileage throughout the agreement however now [Lex Autolease is] asking for more money above and beyond what was agreed. There is no invoice and no proof they have made any losses. They sold the car quickly and recovered all costs. We've now been harassed and they will not respond to our questions"*.

Mrs S's complaint was looked at by one of this service's investigators who, having considered everything, didn't think that it should be upheld. He didn't think that there had been a data protection breach and thought that the contract amendments, despite being made by Mrs S's husband, were valid and that Lex Autolease had acted on those amendments so he didn't think that it needed to do anything more.

Mr S's husband didn't agree with the investigator's recommendation and asked for this complaint to be considered by an ombudsman. He has provided detailed responses to the investigator's recommendation and says, in summary and amongst other things, that Lex Autolease hasn't provided proof that the that the contract mileage allowance was displayed or changed in May 2023.

## 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.

Mrs S agreed to pay an initial rental of £7,505.28 and 47 monthly rentals of £625.44 for a car to be supplied to her. The hire agreement says that the contract mileage allowance was 32,000 miles and that the extra mileage charge was 44.62 pence per mile.

Mrs S's account was logged onto in May 2023 and the term of the hire agreement was reduced to 41 months and the monthly rental was reduced to £298.51. Mrs S's husband says that he made the amendment so Mrs S hadn't legally agreed to it but Mrs S's monthly rental payment and the term of her hire were both reduced and I consider it to be more likely than not that Mrs S was aware of the amendment and agreed to it.

Lex Autolease says that the contract mileage allowance was reduced to 20,500 miles but Mrs S's husband says that it hasn't provided proof that the total mileage was displayed or changed in May 2023. It has provided evidence of the reduction from its records and I'm not persuaded that it's likely that Lex Autolease would have agreed to reduce the term from 48 months to 41 months and the monthly rental from £625.44 to £298.51 unless the contract mileage allowance was also reduced. The evidence from Lex Autolease also says that the extra mileage charge was reduced from 44.62p to 34.54p per mile. I consider it to be more likely than not that the contract mileage allowance was reduced to 20,500 miles in May 2023.

The car was returned when the amended agreement ended and its mileage at that time was 23,317 miles, 2,730 miles more than what Lex Autolease says was the reduced contract mileage allowance so it sent Mrs S a mileage termination invoice for £943.17. Lex Autolease says that, if the agreement hadn't been amended in May 2023, Mrs S would have paid £980.79 more in monthly rentals over the last three months (and she'd also have been required to pay for the car at the original rental for a further seven months). I'm not persuaded that there's enough evidence to show that Lex Autolease acted incorrectly by charging Mrs S for the extra mileage in these circumstances.

Mrs S's complaint form says that there's no proof that Lex Autolease has made any losses as it sold the car quickly and recovered all costs. Mrs S had agreed to pay an extra mileage charge if the contract mileage allowance was exceeded so there's no need for Lex Autolease to prove that it suffered a loss. It's entitled to charge for extra mileage if the contract mileage allowance has been exceeded.

There have been many conversations between Mrs S, her husband and Lex Autolease since the agreement ended. It's clear that Mrs S and her husband consider that Lex Autolease has treated them unfairly and has breached their data protection rights. It apologised for the poor manner in which a call was handled and it paid £25 to Mrs S's bank account as an apology for its poor service. I'm not persuaded that there's enough evidence to show that there's been a data protection breach by Lex Autolease that would justify an award of compensation or further action. Nor am I persuaded that it would be fair or reasonable in these circumstances for me to require Lex Autolease to take any further action regarding the customer service that it provided to Mrs S and her husband.

Lex Autolease sent arrears notices to Mrs S and it says that it defaulted her account in March 2024. I'm not persuaded that there's enough evidence to show that it has acted incorrectly in doing that or that it has harassed them. I appreciate that this will be disappointing for Mrs S and her husband, but I find that it wouldn't be fair or reasonable in these circumstances for me to require Lex Autolease to take any further action in response to Mrs S's complaint.

### **My final decision**

My decision is that I don't uphold Mrs S's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 21 November 2024.

Jarrold Hastings  
**Ombudsman**