

The complaint

Mr P complains that a car he hired via a credit agreement with Lex Autolease Ltd isn't fit for purpose. He wants to terminate the agreement without incurring any charges and also be compensated for having to deal with the faulty car.

What happened

In June 2021 Mr P entered into a hire agreement for a new car with Lex Autolease. The agreement was for four-years, and the monthly rentals were set at £781.46. There was an annual mileage limit of 8000.

In or around November 2021 the car was stolen but subsequently recovered albeit damaged. Repairs were covered by insurance and were extensive including the fitting of a new battery. The car was returned to Mr P for the remainder of the lease agreement.

From January 2023, Mr P experienced multiple breakdowns with the car due to its battery draining. The car was investigated by a dealership and the garage sought advice from the manufacturer's technical team. During 2023 and the beginning of 2024 the car broke down 13 times. The repairing dealership were unable to locate a fault and even removed the third-party accessories that Mr P had added as security features (a tracker and ghost immobiliser) in case these had been draining the battery.

Mr P made around five complaints in total to Lex Autolease about the car and asked to be able to terminate the agreement. Lex Autolease didn't uphold any of Mr P's complaints either because the fault was considered to be linked to the repairs carried out following the car's theft, to the third-party accessories or because no fault could be found with the battery.

Mr P complained to this service. He said that the car constantly breaking down showed that it wasn't fit for purpose. He asked to be able to reject it and end the agreement.

Our investigator recommended his complaint should be upheld. She said she thought the car hadn't been of satisfactory quality at its point of supply to Mr P as it hadn't been as durable as a reasonable person would have reasonably expected. She said that the agreement should be ended with nothing further to pay, the car to be collected, that Lex Autolease should pay Mr P £300 in compensation and it should remove any adverse information about this agreement from Mr P's credit file.

Our investigator said that as Mr P had had use of the car and had also been kept mobile when it was in for repair, that it was fair for him to pay for that via the monthly rentals. She said she wouldn't request that Lex Autolease reimburse him any of his monthly payments.

As Mr P had had to buy a battery charger to deal with the battery issue, our investigator said she thought reimbursement of that item would be fair.

Mr P expressed some disappointment as to the amount of compensation. Lex Autolease said that by taking a holistic view of the events, it would agree to ending the contract and collecting the car but asked that some of the wording as to the settlement be amended.

Lex Autolease said it didn't think it would be fair for the car to be returned with nothing further to pay because there may be applicable end of contract charges if the car had sustained damage beyond what would be considered fair wear and tear or had excessive mileage. It said these charges were in line with the agreement's terms and conditions. Lex Autolease also objected to the instruction to remove any adverse information about the agreement from Mr P's credit file. It said Mr P had had some late payments reported in 2022 and one in 2023 which were not connected to his complaint. It said it was obliged to accurately record how a consumer had managed a credit account and to remove this information meant it would not be doing so.

The complaint was passed to me. I issued a provisional decision along the following lines.

As the hire agreement entered into by Mr P was a regulated consumer credit agreement, then this service was able to consider complaints relating to it. Lex Autolease was also the supplier of the goods under this type of agreement and was therefore responsible for a complaint about their quality.

Under the Consumer Rights Act 2015 there is an implied term that when goods are supplied the quality of the goods is satisfactory. The relevant law says that the quality of the goods is satisfactory if they meet the standard that a reasonable person would consider satisfactory taking into account any description of the goods, price and all other relevant circumstances.

The relevant law also says that the quality of the goods includes their general state and condition, and other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability can be aspects of the quality of the goods.

Here the car was brand new so would have been expected to be fault-free. It would also have been expected to be reasonably durable.

From the evidence that has been provided, I hadn't seen that there were any issues with the car until around January 2023. And although I agreed with our investigator's view that a car of this age and which also had a low mileage of just under 6,000, wouldn't be reasonable expected to develop these types of issues, I was also aware that the car had earlier been stolen and recovered in a relatively poor state when looking at the job sheet for the repairs that had been necessary before it could be returned to Mr P. The job sheet also set out that the battery had been one of the components that had needed to be replaced.

So, I didn't think there was enough evidence to reasonably say that the car that had been supplied to Mr P hadn't been materially affected by the later repairs. I'd seen that these repairs had also been raised as reason for Lex Autolease not upholding Mr P's earlier complaints. However, I also accepted that the later investigations by the repairing dealership hadn't been able to discover the cause of the fault and they had admitted they had therefore been unable to carry out an effective repair. So, it was unclear what the problem with the car was and how/when it had arisen.

As Lex Autolease had agreed to the car being returned and the agreement ended then I didn't think it was necessary for me to decide whether the car had been fit for purpose and reasonably durable. But I thought it was important for me to have flagged up that I didn't think this had been a clear-cut matter of the car not having been of satisfactory quality at its point of supply to Mr P.

Lex Autolease had accepted the car had an ongoing fault and by agreeing to pay Mr P compensation of £300 I thought it had also accepted that he had suffered inconvenience and distress dealing with it. I appreciated that after the number of breakdowns Mr P experienced, he was disappointed by the level of compensation, but as set out above, due to the repairs in

late 2021, there was the potential for the problem to have been due to the quality of those repairs rather than the quality of the vehicle. And Lex Autolease wouldn't necessarily have been responsible for the quality of the repairs.

I therefore thought that as Lex Autolease was agreeable to honour the £300 compensation then this should remain part of the settlement. But I wasn't going to ask Lex Autolease to reimburse Mr P any of his monthly rentals, I'd seen that he had been kept mobile with the use of courtesy cars and/or paid taxis. I thought it was fair and appropriate that he pay for those travel costs via his monthly payments under the agreement.

As the agreement had been ended and the car collected, I didn't expect Mr P to be liable for any rental payments after the car had been handed back unless there had been any arrears to pay. However, I expected Mr P to remain liable for any end of contract charges. So, if there were any issues with the condition of car, I would expect him to be duly invoiced as provided for in the agreement's terms and conditions. I wasn't aware there were any such charges but of course if there were, and Mr P disagreed with them, he would be entitled to challenge them with Lex Autolease.

Although this agreement had ended, I wouldn't treat it as having been unwound. And I wouldn't ask that the record of this account was removed from Mr P's credit file. I also didn't think that the previous adverse information that had been reported was part of this complaint and, therefore, I wasn't going to ask for it to be removed. I hadn't seen that Mr P had raised any issue at the time and if he did want to complain that the reporting of late payments was unfair, then I thought he would need to raise that with Lex Autolease first.

So, for the reasons given above, I was intending to partially uphold Mr P's complaint. I asked Lex Autolease to do the following:

- Pay Mr P £300 compensation as agreed.
- To end the agreement on the date the car was collected so that Mr P was not liable for any further rental payments after that date, unless there were any arrears to clear. Mr P however remained liable for any end of contract charges as per the hire agreement's terms and condition.

Lex Autolease has said it agrees with my provisional view. Mr P hasn't asked me to look at any parts of my provisional decision again or raised any objections to it.

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.

Even though I haven't been asked to look again at the conclusions I reached, I have reviewed the evidence and my provisional decision. I haven't changed my view.

I'm still satisfied that the issue with the car isn't necessarily a fault that was present or developing at the point of supply given the repairs that were necessary after it had been stolen and recovered. I think Lex Autolease's decision to agree the ending of the contract was fair as was the £300 compensation for Mr P.

However, for the reasons set out above, I'm not asking Lex Autolease to increase the compensation nor reimburse Mr P's monthly payments that he has made under the agreement. I'm also not treating this agreement as one that has been unwound and so I'm not asking for any adverse information to be removed from Mr P's credit file.

Mr P will remain liable for any end of contract charges that may arise following the car's return should these arise.

As set out above, I'm partially upholding Mr P's complain

Putting things right

I'm asking Lex Autolease to do the following:

- Pay Mr P £300 compensation as agreed.
- To end the agreement on the date the car was collected so that Mr P is not liable for any further rental payments after that date, unless there were any arrears to clear. Mr P however remains liable for any end of contract charges as per the hire agreement's terms and condition.

My final decision

For the reasons given above I'm partially upholding Mr P's complaint.

I'm asking Lex Autolease Ltd to do the following:

- Pay Mr P £300 compensation as agreed.
- To end the agreement on the date the car was collected so that Mr P is not liable for any further rental payments after that date, unless there were any arrears to clear. Mr P however remains liable for any end of contract charges as per the hire agreement's terms and condition.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 28 March 2025.

Jocelyn Griffith
Ombudsman