DRN-6100991

The complaint

Mrs M is unhappy with the charges applied by Volvo Car UK Limited after she returned a car that had been supplied to her under a hire agreement.

What happened

In December 2021, Mrs M was supplied with a car through a hire agreement with Volvo. She paid an advance payment of £489, and the agreement was for 36 months with monthly rental payments of £489. The agreement limited Mrs M to 6,000 miles a year (18,000 miles over the full term of the agreement) and clearly stated *"an excess mileage charge of £0.20 (20p) per mile if you exceed the annual base mileage allowance."*

The car was returned to Volvo at the end of the agreement, and they inspected it for damage that fell outside of normal fair wear and tear. This inspection recorded a mileage of 32,691 miles and identified damage outside of normal fair wear and tear that totalled £273. So, Volvo invoiced Mrs M for this damage, and for the excess mileage done.

Mrs M was unhappy with these charges. She felt that 20p per mile was excessive and that Volvo had a duty to monitor the mileage she was doing and offer her the opportunity to upgrade the allowable mileage, so this wasn't exceeded. Volvo didn't uphold this complaint, so Mrs M brought it to the Financial Ombudsman Service for investigation.

Our investigator said that there was damage to the car that fell outside of normal fair wear and tear guidelines, so Volvo were fair to charge for this. They also said that Mrs M had exceeded the allowable mileage and Volvo were charging for this in line with the terms of the agreement. So, they didn't think Volvo had done anything wrong.

Mrs M didn't agree with the investigator's opinion. She said that the investigator had failed to physically inspect the damage to the car, and that she didn't accept any responsibility for any damage. She also said that the car was supplied under a subscription agreement with Volvo, and the mileage was flexible throughout the term of the agreement – Volvo had failed in their duty of care to advise her that the mileage had exceeded the allowance, therefore giving her the opportunity to address this situation. Finally, Mrs M said she thought Volvo had been pursuing her for the incorrect amount.

After further discussion with both parties, the investigator said that Volvo were fair to charge for the excess mileage and for the damage to the car upon collection. They also said that Volvo were fair to charge a £30 abort fee as, on the day they first came to collect the car, the tyre tread was below the legal minimum, so the car wasn't in a safe and roadworthy condition to be driven away.

However, the investigator said that Volvo had incorrectly invoiced Mrs M for the December 2024 payment which was subsequently corrected. Volvo had offered to refund one payment of £489, and compensate Mrs M £200, for the errors that had happened, and the investigator thought this was reasonable in the circumstances. So, they said this was something Volvo should do.

Mrs M still disagreed with the investigator's opinion, so the 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.

Before I explain why I've reached my decision, I want to address Mrs M's comments that *"this vehicle was obtained through a subscription, not a lease, rental, PCP, or HP agreement"* which she considers *"fundamental"* to her complaint. I've reviewed the agreement between Volvo and Miss M and, while this is branded as *"Care by Volvo"* it clearly states the agreement is a *"Hire Agreement regulated by the Consumer Credit Act 1974."* As such, I'm satisfied that Mrs M was supplied with a car under a regulated hire agreement, which means we're able to investigate complaints about it.

It's not disputed that, when the car was collected, the mileage was substantially in excess of the amount allowable under the agreement Mrs M signed on 8 December 2021. As I've said above, the agreement clearly stated any excess mileage would be charged at 20p a mile.

Mrs M believes that Volvo failed in their duty of care by not carrying out any mileage checks, which prevented her from exercising her contractual right to amend the allowable mileage. And she has referred to specific terms which she believes shows that Volvo had this duty.

The term that covers this, which Mrs M has specifically referred to, states:

> *"Your subscription comes with an annual base mileage allowance (which will be proportionally adjusted depending on how long you keep the car). You may request a change of your mileage allowance if you foresee that you will not end up at the agreed mileage level (we may also contact you to offer a change in your mileage allowance). A change will trigger an adjustment of the subscription fee going forward."*

I disagree with Mrs M's interpretation of this term, as I don't believe this implies that Volvo have a duty to monitor the mileage and offer an increase in the mileage allowable. Instead, I'm satisfied this term clearly allows both parties the right to request a change to the mileage allowable and confirms that any change will result in a change in the monthly rental payment – it does not oblige either party to request or accept any change.

When Mrs M took out the agreement, she agreed to be legally bound by its terms. It's therefore reasonable for me to assume that Mrs M either read and accepted the terms before signing or signed in the knowledge that she hadn't read the terms but accepted them regardless. So, having been provided with a copy of those terms, I'm satisfied Mrs M ought reasonably to have been aware what she was agreeing to.

Mrs M agreed to a 6,000 mile a year limit, and in the knowledge that exceeding this mileage would impose a charge of 20p a mile, and that she was able to request an increase in the allowable mileage if, at any time during the agreement, the allowable mileage wasn't sufficient for her needs.

Mrs M had access to the current mileage every time she used the car, and she was also aware of her likely ongoing usage of the car – something that Volvo wouldn't have been aware of, even if they were monitoring the mileage on a daily basis. What's more, Mrs M would also have been acutely aware of her financial circumstances, and whether she was able to afford the increased payments that would come with an increased mileage – again something Volvo would not have been aware of.

It's therefore reasonable for me to conclude that Mrs M was in the best position to know whether a change in the mileage allowance was needed, not Volvo, and of what the likely penalties for not doing this would be – the excess mileage charge. As such, I don't think that Volvo did anything wrong by not contacting Mrs M to ask her if she wanted to increase the allowable mileage and, if such an increase was needed, then it was for Mrs M to request.

With regards to the charge for damages, Mrs M doesn't disagree that Volvo had the right to charge for this, only that they are charging for damage they are unable to prove. She has also said that Volvo should've advised her of her right to take the matter to the British Vehicle Rental and Leasing Association ('BVRLA') for an independent adjudication on the charges being applied.

The BVRLA is an Alternative Dispute Resolution ('ADR') entity as defined by the Financial Conduct Authority and the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015. Our rules allow us to dismiss a case where it has already been considered by another ADR entity as, to investigate such a complaint, we would be looking at the same evidence and considering the same guidelines and regulations. So, this would require a duplicate investigation into the merits of a case already carried out by an ADR, which wouldn't be a reasonable use of the Financial Ombudsman Service.

As such, Volvo aren't obliged to advise customers of their right to refer an issue to the BVRLA when they have already been advised of the right to bring the matter to ourselves, and, if the matter had been considered by the BVRLA, for the reasons stated we would not be able to consider it. Given this, Mrs M hasn't been disadvantaged by the matter not being considered by the BVRLA.

I've reviewed the inspection report that took place on 25 November 2024, in line with the BVRLA guidelines. This report details damage to the car that falls outside of these guidelines and are therefore chargeable. While I appreciate that Mrs M won't agree with me on this, I'm satisfied that the photographs attached to the inspection report clearly shows that the damage being charged for is outside the guidelines. For clarity, this chargeable damage is:

- a dent on the front wing in excess of the allowable 15mm
- a scratch on the left quarter panel which is showing the primer underneath
- two scratches on the tailgate which are showing the primer underneath

I'm therefore satisfied that Volvo haven't acted unreasonably by charging for this damage.

Finally, Volvo have acknowledged they invoiced Mrs M incorrectly, and this caused some shock and confusion. They have made an offer to remedy this, which I consider is fair and reasonable in the circumstances, so I'd expect Volvo to honour this offer. But Mrs M has now been correctly invoiced and it's reasonable for Volvo to chase her for payment, advising

what could happen if payment is not made – doing so is supplying Mrs M with factual information. So, I won't be asking Volvo to do anything more than they've offered to.

Putting things right

If they haven't already, Volvo should refund the £489 payment they have agreed to refund and pay Mrs M £200 compensation for what has happened. As Mrs M still owes a substantial amount to Volvo for the above, in these circumstances I'm satisfied that Volvo can deduct these amounts from the amount owing, and they should reissue the invoice to Mrs M, accounting for this.

My final decision

For the reasons explained, I uphold Mrs M's complaint about Volvo Car UK Limited. And they are to follow my directions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 25 February 2026.

Andrew Burford
Ombudsman