

The complaint

Miss B complains about the quality of the car supplied to her on a hire agreement by LeasePlan UK Limited (“LeasePlan”).

What happened

Miss B entered into a hire agreement with LeasePlan in June 2018 for a new car. The original agreement was due to last for two years but was informally extended by both parties thereafter on a rolling basis.

In May 2023 Miss B had problems with the automatic gearbox, and it was examined by both a third party specialist garage, and then a manufacturer garage. At this time, the car had covered just under 20,000 miles. It was ascertained that there was a fault with the automatic transmission, and it would need to be replaced.

Miss B raised a complaint about the car, but LeasePlan told her that as she had no maintenance contract, and the manufacturer warranty had now expired, it was Miss B’s responsibility to arrange and pay for any repairs like this. Her rolling extension of the lease was due to be renewed shortly afterwards, and Miss B said she wanted to return the car. LeasePlan confirmed she could, but that she would be liable for any reduction in the value of the car when it was sold at auction in a non-working condition.

Unhappy with this, Miss B referred her complaint to our service, commissioned an independent report on the problems, and asked LeasePlan to store the vehicle until the complaint was resolved.

An investigator here looked into the case and upheld the complaint. They felt that despite the car being around five years old when the fault occurred, it had only travelled 20,000 miles, and an automatic transmission should last considerably longer than that. They therefore didn’t feel the car was sufficiently durable and Miss B had the right to reject it on that basis.

LeasePlan didn’t agree with this and asked for an Ombudsman to make a final decision. They said in a call to our service that their technical team believed that this problem might be caused by driving style, and they agreed to send their thoughts in an email for an Ombudsman to consider.

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.

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. Miss B 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, LeasePlan 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 and its durability. Durability means that the components of the car must last a reasonable amount of time.

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 LeasePlan can show otherwise. But, where a fault is identified after the first six months, the CRA implies that it's for Miss B to show it was present when the car was supplied.

So, if I thought the car was faulty when Miss B took possession of it, or that it wasn't sufficiently durable, and this made the car not of a satisfactory quality, it'd be fair and reasonable to ask LeasePlan to put this right.

Durability is the key consideration to answering this complaint. Miss B has had the car for approaching five years before the automatic transmission has failed. Neither party has disputed this has happened, and there is no indication that any fault has occurred with the automatic transmission prior to this failure. LeasePlan have made several points which I will deal with here, but the fundamental question is about durability.

In considering this argument, I keep in mind the "reasonable person" discussed above in relation to the CRA. LeasePlan have said that it's Miss B's responsibility to meet repair costs because the manufacturer warranty has expired. But I've thought about what a consumer has the right to expect under the CRA when acquiring a car in these circumstances. The car was brand new when supplied and had covered just under 20,000 miles when the automatic transmission has failed.

The length of a manufacturer warranty would be unlikely to influence whether a reasonable person felt the car had been durable. Whilst Miss B has not had the car serviced at a manufacturer own garage, she's had it serviced at correct intervals at a reputable garage. With such low mileage use, I don't believe that the specifics of which garage has serviced the car would be likely to have had an impact on the vehicle or the durability of its automatic transmission.

LeasePlan have not suggested that any particular service for the automatic transmission would have been carried out by a manufacturer service, and I'm not aware of this being the case from my own research.

The independent report commissioned by Miss B has said that it is very unlikely that driving style or driver error would have caused this type of problem in a low mileage vehicle like this one. Whilst LeasePlan verbally confirmed they felt this was possible when asking for an Ombudsman decision on the case, they didn't send us any further evidence as they said they intended to. They had also previously indicated in a recorded phone call to Miss B that they weren't suggesting that she'd done anything wrong or there was driver error here.

I'm not persuaded that this is likely to have been driver error or driving style which has led to the automatic transmission failing. No details have been provided about how this might have

happened or what evidence backs up this theory. I am satisfied that in a low mileage car, used according to Miss B just for standard social and domestic driving, that neither driving style nor driver error have influenced this failure.

So, I'm satisfied that there is nothing else out of the ordinary that's happened here that has impacted on the durability of the automatic transmission other than the age and mileage of the vehicle.

I've researched the expected lifespan of an automatic transmission, as well as considering the comments from the independent inspection carried out. I think that in any circumstances, a reasonable person would expect an automatic transmission to last longer than 20,000 miles.

Whilst I accept that there are occasions when an automatic transmission might need replacing or repairing due to reasonable wear and tear after five years, this would be if the car had covered considerably greater than average mileage, not considerably lower than average mileage as was the case here.

Indeed, in my own research, the manufacturer suggest that maintained well, the automatic transmission should last considerably longer than has been the case here, maybe even up to 15 times more mileage.

I'm satisfied that the vehicle was not sufficiently durable, and as LeasePlan have not chosen to repair this fault for Miss B, she is entitled now to reject the car. Miss B has told our service about the distress and inconvenience caused by this problem, including the stress she's been put under worrying about having to pay out to cover the loss of value due to the fault when the car is auctioned. I agree with the investigator that a payment of £200 for the distress and inconvenience caused here is fair.

I also agree with the rest of the redress recommended by the investigator and which I'll detail below.

Putting things right

I instruct LeasePlan UK Limited to carry out the following to put things right:

- End the agreement with Miss B with nothing further to pay.
- Collect the car at no cost to Miss B (I believe this has already been carried out).
- Refund any rentals paid by Miss B for the period from 1 June 2023 to the date of settlement of the agreement.
- Refund the £84 cost of the independent report commissioned by Miss B.
- Pay 8% simple annual interest on all above refunded amounts from the date of payment to the date of settlement.
- Pay a further amount to Miss B of £200 to recognise the distress and inconvenience caused due to the faulty car.
- Remove any adverse information in relation to this agreement from Miss B's credit file.

My final decision

I am upholding this complaint and instruct LeasePlan UK Limited to carry out the above actions to put things right.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 28 July 2024.

Paul Cronin
Ombudsman