

The complaint

Mr P has brought a complaint on behalf of E, a partnership of him and his mother. For the sake of ease I'll refer to Mr P throughout.

Mr P complains about a car acquired through a Hire agreement with Arval UK Limited ('Arval'). Mr P has had problems with the car and says these defects would've been present when the car was supplied.

What happened

When Mr P acquired the car in September 2021, it was brand new. The agreement involved an initial rental payment of £1,308.36, followed by 35 payments of £109.03 – along with VAT. If the agreement ran to the end, payments would have totalled £5,124.41 (plus VAT).

Mr P complained about the screens not working properly, the mileage jumping and the system's language changing without warning. After numerous attempts at repair, he was told there wasn't a fix for the issue but he couldn't reject the car until it was repaired. He says he hasn't used the car since July 2023 and is still paying towards the agreement and insurance.

I can see Mr P first raised the issue with the display blinking in October 2021 and again in April 2022. When the dealership looked into this, the car had covered 5,122 miles, but it said it couldn't find the issue.

Mr P continued to raise issues with the display and provided photos from July 2022 indicating the central screen being blank. I haven't seen any further records or evidence until the dealership looked at the car in May 2023, when it looked into the issue and carried out a screen replacement under warranty. By this time the car had covered 13,088 miles.

Mr P provided a photo of the car the next morning with mileage of 13,532. He says this is evidence of the mileage significantly jumping more than the actual mileage covered. He provided further photos of the display in different languages, which happened automatically.

He complained to the broker in June 2023 about the visits to the dealership, the speedometer panel replacement, the mileage jumping and the screen flickering. He said he'd persevered with the car but now wanted to reject it. He said if the agreement ended now, he'd lose his initial payment and he would like a proportionate refund of that.

Mr P asked Arval in June 2023 to reject the car because of electrical faults. He provided our service a video, seemingly recorded on 23 June 2023, which shows the display as blank.

There was a lot of back and forth over the coming months. The car's light was repaired and Arval was under the impression the issue Mr P was complaining of was now fixed. It responded in September 2023 to say that things seemed to now be resolved.

Over the following weeks there was correspondence about why there were outstanding payments, why a vehicle fund licence payment was taken, the next steps about the quality of goods complaint, the recent use of the car and the problems since acquiring the car.

An entry in the vehicle history in November 2023 shows a service was carried out in relation to the screen going blank and the steering locking. At this time the mileage was now roughly 15,000. It doesn't say exactly what was found as a result of this service though.

This all culminated in early December 2023 with Arval saying it would take the car back early without a termination fee. But other charges, like the mileage, damage and end of contract charges, would remain. It said the vehicle needed to be repaired first though, so Mr P had to book the car into a dealership and Arval would take it from there.

Mr P said the dealership wouldn't take the car in, so he couldn't do that, and he shouldn't have to pay for excess mileage. After further complaints, Arval arranged the collection of the car and the termination of the agreement. Arval says while Mr P says there were issues back to October 2021, Arval wasn't aware until June 2023 and it offered rejection in November 2023, which wasn't accepted until January 2024. It first became aware of the issue 21 months after the car was supplied. It felt there wasn't enough evidence to show the mileage was jumping. But it thought the car should be booked into the garage for investigation.

The collection was booked for the end of February 2024 and Arval backdated the end of the lease to 20 January 2024, which it says was the first time Mr P agreed to the rejection.

On collection the car had covered 16,155 miles. The limit under the contract was 15,000, so an excess mileage charge of £119.77 was applied. The car was inspected which found two wheel gouges and one spare key missing, with charges of £110 and £185 respectively. This left an outstanding balance of £1,347.57, which also included seven unpaid rentals from July 2023 onwards and a £30 vehicle excise licence charge.

But Arval didn't fully respond to Mr P's complaint, so he referred it to our service.

The investigator who first considered the complaint felt the entertainment system fault was highlighted early on. This was the type of defect that shouldn't have been present and it returned a number of times. They felt there wasn't evidence of there being an issue with the mileage jumping. However as the car had already been returned, Arval should pay £200 to reflect the inconvenience all of this had on Mr P.

Arval agreed to pay the £200 compensation suggested by the investigator.

Mr P stressed that the screen going blank while driving and the steering column locking was dangerous. He felt it was unfair to pay the excess mileage charge when the mileage jumping is a known issue. Initially he thought he'd been doing the recorded mileage, so he didn't think of noting any of it down. But when he did realise, he didn't know how to properly record the issue. And he didn't think £200 reflected the difficulties experienced.

Mr P highlighted some evidence he had provided about the mileage jumping and Arval agreed to waive the excess mileage charge on the basis of that evidence. It said it would offset this against the outstanding balance, leaving £1,227.80 to pay. Mr P disagreed with how the outstanding balance had come about. Arval said Mr P cancelled the direct debit. Mr P disputed this. But either way the investigator thought this outstanding balance was fair given the car had been used during that time.

Mr P said he hadn't used the car, it had been mostly in his warehouse and only used when taken to the dealership and on test drives at the dealership. He thought it wasn't fair for him to pay all the rentals given how much of the time it was being repaired. He also thought it wasn't fair to be charged vehicle excise duty, when that was included in the lease anyway. He disputed the wear and tear charges too as he wasn't given the opportunity to attend to

these issues prior to return. He said he still has the spare key, but wasn't given an opportunity to return it.

He asked for the case to be reviewed by an ombudsman. It was passed to me to issue a decision and I issued a provisional decision upholding the complaint. I've copied those findings below.

“What I've provisionally decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of the complaint.

Having done so, I'm intending to reach a slightly different outcome to the investigator that considered the complaint.

I'm required to take into account the relevant laws and regulations; regulators rules, guidance, and standards; codes of practice and, when appropriate, what I consider to have been good industry practice at the relevant time. I may not comment on every point that's been raised, but I have read and considered everything that's been said. Instead I will focus on what I think are the key points to reach a fair and reasonable decision. This reflects the nature of our service which was set up to be an informal alternative to the courts.

Where information or evidence is missing or contradictory, I'll make my decision based on the balance of probabilities – that means what I consider to have more likely than not happened – given the available information.

I will lay out what I consider to be the key facts and the considerations I've taken into account when reaching my decision.

Mr P acquired the car through a Hire agreement with Arval. Under this type of arrangement, Arval became the supplier of the car and is responsible for any issues with the quality of goods provided. As the agreement was entered into for business use, the key legislation for me to consider is the Supply of Goods and Services Act 1982 ('SGSA'). This outlines, among other things, that goods should be of satisfactory quality at the time they're supplied.

Satisfactory quality is described as the standard that a reasonable person would expect taking into account, among other things, the description, age and price of the goods. The quality of the goods includes their state and condition - and where appropriate their fitness for purpose, appearance, freedom from minor defects, safety and durability should be taken into account.

Because the car was provided brand new, I would have expected it to remain fault-free for a considerable amount of time. It's possible that wear and tear items might need attending to after some time, however I wouldn't expect components to fail or become unreliable.

As early as October 2021 it seems to be evident that issues with the digital display began, and got progressively worse. This would have impacted the comfort and enjoyment of the car. Mr P has said this has caused safety concerns. He's explained instances where the screen had gone blank on a motorway and he'd no longer know his speed. I do acknowledge that this would be alarming and in some circumstances could be dangerous.

This issue persisted and Mr P has provided photographs evidencing the blank screen from July 2022. We haven't got much evidence after that until the screen was replaced under warranty in May 2023.

Mr P continued to complain about the issue and we have a video seemingly time-stamped 23 June 2023 showing a blank screen despite the radio being in operation. So the evidence we have indicates this issue has persisted.

I think this persistent fault means the car wasn't of satisfactory quality, given the fact it was brand new at the point of supply and should have remained fault-free for some considerable time. Having this persistent fault would have been frustrating and it would have impacted on Mr P's ability to enjoy the use of the car from at least October 2021 and this issue would have been present relatively consistently throughout his possession of the car.

Mr P has repeatedly complained about the mileage being incorrectly recorded by the car. He provided an invoice with the mileage recorded and a photograph from the day after the invoice which shows the mileage having increased by roughly 500 miles. Arval was willing to waive the excess mileage charge under the agreement on this evidence.

We haven't been provided with further evidence of the mileage issue, so I think what Arval has agreed is fair. I don't think the evidence provided is enough for me to make any further award with respect to the overall mileage covered or any other instances where it's alleged that the mileage unexpectedly increased over and above what had been actually travelled.

Mr P complained about the steering wheel intermittently locking while driving. This would be a significant safety issue and would understandably have caused a great deal of concern. While I note what Mr P has said about the steering, I haven't seen sufficient supporting evidence to demonstrate the significance of the issue or how frequently it occurred. It's because of that, I don't consider it reasonable to make a separate monetary award to reflect this.

I am satisfied that Mr P's use of the car was impaired from at least October 2021. However the car continued to be used for a considerable amount of time, with over 16,000 miles usage when the agreement was terminated in February 2024.

Although the exact mileage may not be known because of the issues Mr P experienced, it is clear that he has been able to use the car to travel in the region of 16,000 miles. This is greater than the mileage allowed under the contract, however it's not an excessive amount of use for the time period concerned.

It seems perfectly plausible that the car had been driven roughly this amount – and with Arval agreeing to waive the excess mileage charge, I think that's fair in the circumstances.

However Mr P's use of the car was impaired by the faults with the electrical components. This doesn't seem to have been a constant issue, but it was certainly long-standing. This seems to have been present since at least October 2021 and so it's fair for 10% of the monthly rentals from then on to be refunded to reflect the impact this had on the use and enjoyment of the car.

There is an outstanding balance which stems mostly from payments that hadn't been made to the agreement from July 2023 onwards. After waiving payments applied after the termination date of January 2024, along with the excess mileage charge, this sat at £1,227.80.

Arval said Mr P had cancelled the direct debit, but Mr P said he thought Arval had cancelled it. I haven't been provided with evidence from either side to confirm this and invite both sides to do this. Either way, though, if Mr P is liable for the payments then they should be made regardless of how the direct debit came to be cancelled.

Mr P says he hadn't driven the car since June or July 2023. However as the investigator noted, the car had been used in that time as demonstrated by the mileage having increased. I haven't seen anything to confirm the car was not drivable in this time.

Mr P said the car had been used at least to some extent, and I haven't seen any evidence to demonstrate it wasn't used. So I don't think there's anything I can rely on to justify saying that the payments shouldn't be made. Because of this I think those monthly payments are due – albeit with a 10% reduction in line with the impaired use I've outlined above.

Mr P made an initial payment of £1,308.36. The more this initial payment was, the less the monthly payments would be from then on. So I've factored this into what's fair redress too, in order to reflect Mr P's use of the car.

The agreement was terminated in January 2024. There should be a pro rata refund of the initial payment to reflect the period from January 2024 to the end of the agreement. While there were faults, the car was still used from October 2021 until January 2024 - sometimes to a lesser extent and sometimes to greater extent. The initial payment should be prorated to reflect the period of impacted use and 10% of this figure should be refunded.

When the car was returned, Mr P was charged for damage to the wheels and for a missing spare key. I don't think it's unreasonable for Mr P to be charged to reflect the condition of the car on return. He says he wasn't given the opportunity to attend to the wheel damage before it was returned. However he did have the car for a considerable amount of time before it was returned and he went to great efforts to try to secure the return of the car. So he ought to have anticipated that any issues with the car would have to have been sorted prior to the car being returned.

I think he did have the opportunity to attend to any issues before the car went back, so I don't think it's fair for the associated damage charges to be waived. In any event, had Mr P repaired the damage to the wheels he would have therefore incurred a cost in doing so in any event.

However Mr P says he still has the spare key which he was charged £185.00 for. If that's the case, and he wasn't given a reasonable opportunity to return the key, then I don't think he should be charged for this. I haven't seen evidence to persuade me that Mr P was told he had to return the spare key with the car. If the car has since been sold after it was returned, then it may be too late for Mr P to return the key. But if he can demonstrate he still has it, then this charge should be waived from the outstanding balance.

Mr P has disputed a £30.00 road fund licence charge as this should've been included in his rentals. Arval explains this was a tax adjustment. The agreement with Arval did include the cost of the road fund licence, however it also allowed Arval to charge an adjustment if this tax increased. This seems to be what happened here so I don't think this charge is unfair.

There is some confusion between the parties as to who cancelled the direct debit and what payments Mr P had to make. Considering the broader circumstances, I think it would be fair for Mr P to be given a reasonable time to be able to clear any arrears and, if he does, for any information reported to credit reference agencies to be amended accordingly.

Arval has agreed to pay Mr P £200.00 to reflect the inconvenience this matter has caused. I think that's fair in the circumstances."

Responses to the provisional decision

Arval said it would action the proposed settlement in the provisional decision. It provided calculations for this redress, which left an outstanding balance of £151.70, but it felt the missing key charge should remain because Mr P would have been advised to return all items when the car was collected. It said he was invoiced for this before the car was sold and if he'd raised the issue sooner it could have been sold with the second key. It also said it couldn't remove credit reference agency information until the outstanding balance was paid.

Mr P said between July 2022 and May 2023, there were no developments because there were no suggested fixes for the car's issues and so he had no option but to drive the car. He said he nearly had an accident because the screens went blank and he became scared to drive the car. He says he hardly used the car since and thinks the odometer must have jumped as he hadn't covered 1,200 miles. He said when he was at the dealership another customer had the same issue, but he couldn't get their details.

He said when he wanted to cancel the agreement in June 2023, Arval insisted on him having to complain to the BVRLA, and he couldn't complain to our service. And also on having to repair the issue before being able to return the car. He says the rejection was finally agreed by January 2024, once the dealership confirmed there wasn't a fix that could be carried out. So he says the rejection wasn't offered in November 2023.

Mr P said there were repeated attempts to fix the car, and if the matter had been handled properly and it had been escalated sooner, he wouldn't have had to continue making payments to the agreement and it would've been settled early in 2022. He said he could have had end of contract repairs done more cheaply and he said he didn't know how to evidence he had the key, but he could provide a photograph.

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.

I've outlined in the provisional decision what I'm required to take into account, how I'll come to a decision and the key legislation in this case. I'll lay out what I consider to be the key facts and the considerations I've taken into account when reaching my decision.

Having weighed up the responses to the provisional decision, I've come to broadly the same outcome and for the same reasons.

There isn't much dispute around the quality of the car and the reasons for its rejection, so I won't go into detail on what's already been outlined in my provisional decision. The areas remaining unresolved relate to how things should be put right. I'll address the points raised in response to the provisional decision before confirming how things should now be resolved.

Mr P says the date rejection was offered wasn't November 2023, and pointed to the section of the provisional decision where this was mentioned. This part of the decision explains that this is what Arval had told our service. But this doesn't change things in any event.

I don't dispute that this issue being resolved sooner would have lessened the impact on Mr P. Though it's possible the agreement could have been terminated earlier, I have to consider that the evidence I have persuades me the car was used at least to some extent during the time Mr P had it – and this use has to be factored in to the redress I've recommended.

Mr P says he was unhappy with the fact Arval told him he couldn't complain to our service. The email he's referred to essentially explains that because he had a complaint lodged with the BVRLA, he wouldn't be able to complain to our service also. This advice wasn't exactly

correct, though sometimes a parallel complaint with a comparable Alternative Dispute Resolution entity could impact the ability to bring the same complaint to our service. However this would have no doubt further frustrated Mr P. While I accept that frustration, ultimately he did complain to our service and hasn't been significantly disadvantaged by that, so I don't make any further award to reflect this. What Mr P has outlined is consistent with the overall level of frustration I'd envisaged when awarding £200 compensation.

Arval has argued that the charge applied for the missing key should stand because Mr P was warned that he had to return everything with the car and he should have raised this sooner so the key could've been returned with the car when it was sold on.

In the provisional decision I said that Mr P would have known that damage to the car would have to be attended to prior to return and would also have had to pay for repairs in any event – so these charges were fair overall. However I didn't have any evidence to say he was told to return the spare key. Arval hasn't provided any further evidence to support that Mr P was notified of the need to return everything. As I still haven't got any evidence of this I don't see any reason to change my findings on this point.

Putting things right

I remain satisfied that Mr P's use of the car was impacted from October 2021 onwards – and a portion of the monthly payments and the initial rental should be refunded (or waived if it makes up any of the outstanding balance) to reflect the period up until the car was returned.

No payments should apply from January 2024, when the car was returned, and the unused portion of the initial payment that corresponds to the period after this should be refunded. As outlined in the provisional decision, the excess mileage charge should be waived along with the missing key charge.

As outlined in the provisional decision, Arval should now:

- Refund 10% of the monthly rentals from October 2021 onwards
- Refund 10% of Mr P's initial rental, pro rated from October 2021 to January 2024
- Refund the unused portion of Mr P's initial rental, from January 2024 onwards
- Pay 8% simple interest on these refunds from the date of any payments to the date of settlement*
- Waive 10% of any monthly payments that make up the outstanding balance
- Waive the £185.00 missing key charge once Mr P evidences he has the key
- Ensure the excess mileage charge is waived
- Ensure any payments from January 2024 onwards are waived
- Remove any negative information reported to credit reference agencies if any remaining arrears are cleared within 60 days of the decision being accepted
- Pay £200.00 to reflect the distress and inconvenience caused (if it hasn't already)**

* If Arval considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr P how much it's taken off. It should also give Mr P a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

** If Arval has not paid this £200 compensation for distress and inconvenience within 28 days of the date on which we tell it Mr P accepts my final decision then it must also pay 8% simple yearly interest on this from the date of my final decision to the date of payment.

My final decision

My final decision is that I uphold Mr P's complaint, on behalf of E, against Arval UK Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask E to accept or reject my decision before 1 April 2025.

Scott Walker
Ombudsman