

The complaint

Mrs W complains about the end of contract charges in relation to a car that was supplied through a hire agreement with Mitsubishi HC Capital UK Plc trading as Novuna Vehicle Solutions (Novuna).

What happened

In January 2019 Mrs W acquired a car through a hire agreement with Novuna.

In March 2023 Mrs W complained to Novuna about the end of contract charges she received when she returned her car at the end of the finance agreement. Mrs W says she is being asked to pay £860 in damage charges for poor repair; which she said she was told by the collecting agent, that they'd be passed on to her insurance company.

In May 2023, Novuna issued their final response to Mrs W's complaint which they didn't uphold. Novuna explained the damages identified fell short of the standards set by the British Vehicle Rental and Leasing Association (BVRLA)

Unhappy with their decision, Mrs W brought her complaint to our service for investigation. Having reviewed all the information on file, one of our investigators recommended that Mrs W's complaint should not be upheld. He concluded that as the car wasn't repaired to the standards required prior to being returned Novuna had a right to charge for the unsatisfactory repairs.

Mrs W didn't accept the investigator's view. She said she would have returned her car to the repairing garage if she'd known she'd have to pay £860 for a poor repair. However, as the investigator's view hadn't changed Mrs W asked that her complaint be referred to an ombudsman for a final decision.

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.

In considering what is fair and reasonable, I've thought about all the evidence and information provided afresh and the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and (where appropriate) what I consider to have been good industry practice at the relevant time.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

Mrs W complains about a hire agreement. Entering into consumer credit contracts like this is a regulated activity, so I'm satisfied we can consider Mrs W's complaint about Novuna.

Fair wear and tear guidelines have been issued by the British Vehicle Lease and Rental Association (BVRLA), and these are accepted as an industry standard in determining whether any damage goes beyond fair wear and tear on passenger cars, when they are returned to a BVRLA member at the end of a finance agreement. As Novuna are members of the BVRLA, I've referred to these standards throughout my decision.

My starting point is that neither party dispute the damage that has been recorded. Novuna has said the damage falls outside of fair wear and tear guidelines, and Mrs W, in an email to our investigator dated 24 July 2023 said her main concern was with the way she was misled in the conversation regarding the outcome.

So, I've focussed my decision on whether Novuna treated Mrs W fairly in their decision to apply the damage charges, in light of the conversation that took place with the collecting inspector.

The terms of the hire agreement set out what Mrs W's responsibilities are in relation to the car. Under section 3.1 (b) of *'your obligations concerning the vehicle'* it says:

'You agree to keep the vehicle in good condition and repair. You will be responsible to us for any damage caused to or deterioration of the Vehicle otherwise than through fair wear and tear as indicated in the guidelines issued from time to time by the British Vehicle Rental and Leasing Association (BVRLA)'

On the return of vehicles, the BVRLA guidance says:

'the customer will be given the opportunity to agree with the condition of the vehicle at the point of collection. The leasing company will then be able to carry out a final assessment of the vehicle to calculate what end of lease charges, if any, are payable'

In their final response Novuna explained that Mrs W's hire car was collected under their inspect and collect process which meant a trained inspector would inspect the car prior to its collection and their report would be used to calculate any charges.

In consideration of the terms and the BVRLA guidance I'm satisfied that the process for the collection of the car happened as it should have.

Mrs W says her main concern is with what she was told by the collecting agent. Mrs W says she was misled into thinking she wouldn't have to pay for some of the damage, and that had she known the condition of the car wasn't acceptable she would have gone back to her insurance company in the first instance for further repairs. So, I've considered whether Mrs W was treated fairly when her car was being collected.

Mrs W provided us with a video recording of the conversation that took place with the collecting agent. The recording is about 96 seconds in length and starts and finishes in mid conversation between the collecting agent and with a person I believe to be Mrs W. So, I'm persuaded there was a continuation of the conversation at either end of the video. I think this is important as I've seen no evidence of what may have been said prior to or following what is shown on the recording.

During the recording the agent is discussing the possibility that some of the repairs may go through the insurance company. He also says that he'll put that Mrs's W disagrees with the poor repair and that he'd be surprised if there was a charge for some of the issues. He later advised that he'd expect the costs to be in the region of £200.

I don't think what the collecting agent said was helpful in the circumstances, however, I haven't seen any evidence that he guaranteed or confirmed any final costs to Mrs W. I'm not

persuaded that the agent gave the impression the final decision about any damage charges lay with him.

Throughout the recording he was advising what he would do, for example, that he'd make a note of Mrs W's disagreement to the repairs and that it was to be referred to the insurance company, and that he didn't think the charges would be higher than a certain amount. However, the collecting agent also used the phrase '*I'd be surprised if*', when referring to what limit he felt the final damage costs would not be in excess of. In the circumstances I think it's reasonable to conclude that he wasn't deciding the costs, but most likely compiling a report that would be used to assess and calculate the final charges.

Section 3.1 (b) of the finance agreement says:

'You agree to keep the vehicle in good condition and repair. You will be responsible to us for any damage caused to or deterioration of the Vehicle otherwise than through fair wear and tear as indicated in the guidelines issued from time to time by the British Vehicle Rental and Leasing Association (BVRLA)'

Overall, I don't think it's reasonable to consider the conversation with the collection agent would remove any responsibility Mrs W had in relation to the condition of the car at the end of the agreement. Under the terms of the agreement any damage caused is Mrs W's responsibility. So, I don't consider that Novuna have acted unfairly in the circumstances.

I recognise Mrs W's strength of feeling that she was being led by the conversation she had with the collecting agent, however for the reasons given, I don't think this removes her liability towards the damages and so in the circumstances I'm satisfied that Novuna have acted fairly.

My final decision

Your text here

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 18 January 2024.

Benjamin John
Ombudsman