

## The complaint

Mrs A complains that the car she acquired through Black Horse Limited ("Black Horse") wasn't of satisfactory quality. She wants to reject the car, cancel the finance agreement and have her deposit refunded.

## What happened

Mrs A entered a hire purchase agreement in March 2019 to acquire a used car. At the time of acquisition, the car was just around three years old and had been driven 30,000 miles. She put down a deposit of just over £4,000 and signed a hire purchase agreement for the balance over a period of two years. Mrs A told us there were a number of faults with the car and she doesn't think it was of satisfactory quality. Mrs A says:

- one of the two car keys she was given didn't work and this caused her some inconvenience; she had to return to the dealership five days later to have the problem resolved and the key re-programmed;
- there was a fault with the front heated seats; they didn't heat up properly when the full power option was selected. She says the dealership looked at the seats and said there was no fault with them; it told her the seats were made of thick leather and the heating was working as intended;
- there was a fault with the car's *Bluetooth* functionality, and she couldn't get it to work. She booked the car in for a routine system update in June 2019, but the dealership kept the car for 48 hours; couldn't fix the problem; and then got lost when it tried to return the car to her using up her mileage allowance and her fuel;
- two warning lights came on in the car, one related to a warning that diesel exhaust oil was required. She had to call out a third party for assistance on both occasions. Mrs A says the third party sorted both problems and told her the car should've been sold to her with sufficient diesel exhaust oil - it shouldn't have run out after just three months;
- she's had a car tyre puncture, which she finds unusual as she's never had one on any previous vehicle.

Mrs A says she's been given £200 for her distress and inconvenience but it's not enough – she wants to reject the car, have the finance agreement cancelled and get her deposit back.

Black Horse said it was satisfied that the car supplied to Mrs A was of satisfactory quality at the point of sale and it rejected much of Mrs A's complaint. It did, however uphold one aspect of the complaint.

It said it had spoken to the dealership and had to conclude that the issue with the key had been satisfactorily resolved; the dealership had no record of a fault with the key or any outstanding concerns about it from Mrs A. And it didn't uphold this complaint point.

Black Horse said the dealership confirmed it had investigated the heated seats when Mrs A had first expressed concerns about them, but it had been unable to find fault with them. It said it was unaware she still had concerns with the heated seats, and it was happy to look at

them again if Mrs A booked the car in with it. Because of this, Black Horse didn't uphold Mrs A's complaint about the heated seats.

Black Horse acknowledged there were issues with Bluetooth connectivity. It says the vehicle manufacturer was aware of ongoing issues and is working on a software update to resolve the matter. It says Mrs A's car isn't currently compatible with the very latest version of her mobile phone's operating system. And it highlighted that further details about this are highlighted on the manufacturer's website. It rejected this complaint point; it said this did not indicate there is a fault with the vehicle. And it couldn't be held responsible for mobile phone software updates released by third parties.

Black Horse confirmed that a third party had attended Mrs A's vehicle in July 2019 when she reported the illumination of a warning light. An investigation confirmed a fault with some wiring. It says the wiring was replaced and the vehicle was tested with no further issues identified. Black Horse said that because only a few months had elapsed since Mrs A acquired the car. It accepted it was plausible that the issue with the wiring was "*in the early stages of development at the time of finance inception*" and it paid Mrs A £150 for the trouble and upset she'd experienced. Black Horse acknowledged that although this problem did not affect the car's performance, the warning light would've restricted Mrs A's use and enjoyment of her car.

Separately, the dealership wrote to Mrs A to explain the cause of the other warning light. It said the illuminated warning wasn't an error or a fault. It was indicating that the level of the diesel exhaust fluid was low, and it accepted it shouldn't have released the vehicle to her without checking the fluid level. The dealership explained that this particular fluid was a "*consumable*" and needs topping up regularly in the same way as fuel or screen wash.

The dealership confirmed that all top ups of diesel exhaust fluid are covered by Mrs A's service plan. And it said it as a gesture of goodwill it had put a full tank of fuel in Mrs A's car.

Following further information from Mrs A, Black Horse looked again at the issue she'd first experienced with the faulty car key that needed re-programming. Black Horse said this matter had been remediated before Mrs A raised her complaint, but it acknowledged the inconvenience it would've caused her in having to return to the dealership to resolve the matter. So, it paid Mrs A an additional £50 in recognition of this.

Our investigator looked at this complaint and said she didn't think it should be upheld. She considered each of the complaint points in turn and explained why she didn't think the vehicle was faulty or that Mrs A had a right to reject the car. And she thought the £200 compensation paid by Black Horse was fair and reasonable.

Mrs A disagrees so the complaint comes to me to decide. She says the dealership should've informed her that the vehicle may not be compatible with her mobile phone. And if it had done so, she would not have bought the car.

### **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.

When looking at this complaint I need to have regard to the relevant law and regulations, but I am not bound by them when I consider what is fair and reasonable.

As the hire purchase agreement entered into by Mrs A is a regulated consumer credit agreement this service is able to consider complaints relating to it. Black Horse is also the

supplier of the goods under this type of agreement, and it is 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 wasn't new being around three years old and with a mileage of around 30,000. I think that, taking into account these things, a reasonable person would expect that over time there would be issues with maintenance and repair since components of the car would have been subject to wear and tear through use.

#### *Car Keys*

Mrs A was given two keys with the car. There's no dispute between the parties that one of the keys didn't work as it should've done and Mrs A complained about this on the day that she collected the car.

I'm satisfied that this was a customer service issue and I don't think this has any bearing on my consideration of whether the car was of satisfactory quality. I say this because this issue arose simply because the dealership didn't check that both keys worked properly before handing them over to Mrs A. And once Mrs A notified it of the problem, it quickly re-programmed the key and I understand there's been no further associated issues.

In order to have the key re-programmed, Mrs A did have to make an unnecessary journey to the dealership premises which must have caused her some inconvenience. But Black Horse recognised this, and it paid her £50 for the trouble and upset this caused. I'm satisfied this is fair and reasonable in the circumstances.

#### *Heated Seats*

Mrs A says the heated seats in the front of this car do not get as warm as the heated seats in her previous car, and she asked the dealership to investigate this for her when she told it about the problem with the car key. The dealership confirmed it had looked at the heated seats and found no fault with them. And it explained that different types of seat coverings affect how warm a heated seat may feel. And it said the thick luxury leather seats in Mrs A's car may have caused the seats to feel less warm than in her previous vehicle.

I find this explanation plausible and credible and I'm satisfied this does not indicate an issue with the satisfactory quality of the car. I've also noted that Mrs A hasn't provided any evidence, other than what she says, to demonstrate it's likely there is a fault with the heated seats. I'm therefore not satisfied, on balance, that there was a fault with the heated seats that made the car of unsatisfactory quality.

#### *Bluetooth connectivity*

Mrs A experienced problems with Bluetooth connectivity and, despite some system updates, she can't connect her mobile phone to the car's Bluetooth. Black Horse says there's nothing

wrong with the vehicle; Mrs A's mobile phone operating system is more advanced than the software in the car.

I've considered this very carefully. I can understand how not being able to use her mobile phone in the way she might've wanted would be disappointing for Mrs A. But I don't think this shows that the car isn't of satisfactory quality.

I say this because the car manufacturer acknowledges on its website that it isn't possible for it to keep up to date with the fast-developing world of mobile phone technology. As mobile phone providers update their technology, the car manufacturer develops and releases regular updates to its in-car systems. But I think it's inevitable there's a compatibility risk when buying a three-year-old car and owning a much newer mobile phone. And, in time, the manufacturer's software updates should ensure compatibility.

Furthermore, I don't think the dealership could've been reasonably aware of which model of mobile phone Mrs A owned and, as a result whether or not there'd be any compatibility issues between the mobile phone and the car's Bluetooth software. And if the Bluetooth functionality was important to Mrs A, I think she could've tested the connectivity before she agreed to take the car.

Taking all this into account, I've seen nothing that suggests the car's Bluetooth is faulty; it's simply that it's incompatible with the operating system of Mrs A's current mobile phone. So, I don't think the issue with Bluetooth connectivity means that the car wasn't of satisfactory quality at the outset.

#### *Diesel exhaust oil*

The issue with the Diesel exhaust oil – *Adblue* – caused Mrs A both anxiety and inconvenience. Warning lights came on in the car and she had to use a third party to solve the problem, so I can understand her concerns with this. *Adblue* is added to diesel vehicles in order to reduce harmful nitrogen oxide emissions and it's added to a dedicated *Adblue* tank.

I've considered this very carefully, but I think this was a customer service matter and not something that affects the satisfactory quality of the car. And it's not something I can hold Black Horse responsible for.

I say this because the dealership acknowledged it had made a mistake – it should've ensured that the *Adblue* had been topped up before it released the car to Mrs A. It explained the purpose of *Adblue* and said the levels of it needed monitoring in much the same way that the levels of screen wash should be monitored. And it would need topping up regularly.

The third party topped up the level of *Adblue* and the dealership confirmed that checking the level of this in the future and topping it up was fully included in Mrs A's service plan. It apologised and said as a gesture of goodwill it had provided her with a full tank of fuel.

#### *Wiring warning light*

In July 2019, several months after acquiring the car, Mrs A needed to call on the assistance of a third party because of a warning light; the DEF light was illuminated. The third party reported that the circuit was open, and the wiring was faulty. Black Horse confirmed that the wiring was replaced and tested by the dealership and no further faults have been raised subsequently.

I'm satisfied that in view of the short time that elapsed between Mrs A acquiring the car and the fault arising – just 4 months – it's more likely than not that the fault was present or developing at the point Mrs A took out the finance agreement with Black Horse. And as a result, the car wasn't of satisfactory quality.

The Consumer Rights Act 2015 sets out the remedies available where goods are considered not to be of satisfactory quality and one of the remedies when a fault arises is to allow an opportunity to repair the goods. In this case, the dealership has repaired the fault already, and no further issues have been reported. So, I think this is a reasonable remedy.

However, I think it is also fair to consider the distress and inconvenience suffered by Mrs A in getting this fault repaired and the anxiety that the warning light would've caused.

Black Horse has already paid Mrs A £150 in recognition of this, and I think this is fair and reasonable in the circumstances.

#### *Punctured tyre*

Mrs A says she's had a car tyre puncture, and this is unusual because she's never had one on any previous vehicle. I've considered this point, but I don't think this has any bearing on whether the car was of satisfactory quality.

I say this because many factors influence the puncturing of a car tyre; the way the vehicle is driven; the general road conditions; and sheer misfortune – a discarded item lying in the road. And I simply can't hold Black Horse responsible for this.

#### *Summary*

Taking everything in consideration, I don't think this complaint should be upheld. I'm satisfied that only one of the issues with the car – the faulty wiring – indicates that the car wasn't of satisfactory quality when it was supplied to Mrs A. But I'm also persuaded that the fault with the wiring has been satisfactorily addressed and remediated appropriately.

#### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs A to accept or reject my decision before 12 March 2021.

Andrew Macnamara  
**Ombudsman**