

The complaint

Mr D complains that a car he obtained through a Hire Purchase Agreement with Black Horse Limited (Black Horse) wasn't fit for purpose. He would like to sell the car to recover the cost of a new engine he had to have installed, to cancel his finance agreement, to be refunded the payments he has made to date along with the cost of repairs he has

What happened

Mr D says he took out a Hire Purchase Agreement in July 2018 for a six-year-old car with 63,889 miles on the clock.

He says the day he got the car it over heated , he took it back to the garage the next day but says the garage now tells him it has no record of this.

He says the car continued to overheat until the engine finally stopped working. He says it has cost him around £1,400 to repair the car. And an independent garage told him that the problem was that the cylinder head had been over skimmed.

Black Horse found no evidence Mr D had a problem with the car the day he got it. It noted that the ignition coil pack and spark plugs had been replaced in July 2018 at no cost to Mr D. As this was so soon after the point of sale it felt the problem was present when Mr D got the car. So it offered Mr D £150 compensation along with £25 for the time he was without the car at this point but Mr D declined this.

Black Horse commissioned an independent report which concluded that previous repairs were carried out to a high standard and wouldn't have impacted on the engine failing. And there was no evidence there was an issue with the engine at the point of sale. So it didn't feel it was responsible for the engine failure.

Our investigator didn't uphold the complaint. He found there had been issues with the car at the point of sale, but these had been appropriately addressed by the replacement of parts at no cost to Mr D and by the compensation Black Horse offered. Based on the fact Mr D had driven the car for approximately 10,000 miles before the engine failed and the conclusions of the independent report, he didn't feel there was any evidence of an issue with the engine at the point of sale.

Mr D didn't accept this view. He didn't feel all the points of his complaint had been addressed for example the anomalies on the MOT and registration certificate, and he said the previous owner had confirmed the faults with the car when it was traded in. And he reiterated he had taken the car back the day after he got it.

Our investigator considered these points but didn't change his view. Black Horse said it was possible that incorrect date of ownership might be explained by a previous cancelled sale but couldn't confirm this. In terms of the mileage this had been noted as 60,00 at the MOT in February 2018 and whilst Mr D had said the previous owner had confirmed he wouldn't have driven 4,000 miles before selling it to the dealership, our investigator felt he had seen nothing to confirm this wasn't the case. He added that the Black Horse had confirmed that

the few miles difference between the mileage from the MOT in June 2018 and on the agreement Mr D signed was an administrative mistake. Our investigator appreciated these anomalies might be frustrating he didn't feel they were grounds to allow Mr D to reject the car.

Mr D didn't accept this further view from our investigator. He felt the transfer of ownership document was fraudulent.

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.

Mr D feels strongly about his complaint and I do appreciate it has caused him a degree of stress. So I appreciate he is going to be disappointed as I've reached the same conclusion as our investigator.

Mr D took out an agreement for a used car with significant mileage. So, he might expect to have more wear, tear and repair issues than for example with a new car.

Having said that we do expect cars to be fit for purpose at the point of sale. If problems arise within the first six months of having a vehicle, we usually say it's up to the business to investigate and to carry out repairs or allow rejection if appropriate.

If issues arise after six months, we usually say it's the owner's responsibility to show if issues were present or developing at the point of sale.

I appreciate in this case Mr D says he took his car back to the garage the day after he got it as it was over heating. There is no agreement over this – the business has no record or recollection of this happening so I can't be sure that it did.

But Mr D told us that the car continued to overheat. So I am surprised he continued to use it until June 2019 nearly a year after he had the car, at which point the engine failed. Or that if this problem continued, he didn't go back to the garage about this. The notes from the business that I have seen only show work being carried out to replace the ignition coil pack and parts in August 2018. The next contact from Mr D was to say the car had broken down in June 2019.

Although Mr D only complained to Black Horse in July 2019 nearly a year after he had the car it arranged an independent inspection. The engine couldn't be inspected in its state of failure as Mr D had already had the engine replaced.

I have read the independent report carefully. It's clear from the report that Mr D had covered approximately 10,000 miles by the time the engine failed and needed replacing. This was over a twelve-month period. The report clearly states that any fault with the engine wouldn't have been caused by any previous poor repairs. And that the selling agent had no responsibility for the failed engine. It didn't identify any point of sale issues for which Black Horse would be liable. I found the report conclusive. So, on that basis I don't think I can reasonably expect Black Horse to allow Mr D to end his finance agreement in the way that he would wish.

Mr D also raised an issue with the front passenger tyre and wheel being distorted. But we have no evidence to show this was the case when Mr D got the car. The relevant MOT shows an advisory but for a different tyre. And the HPI completed at the point of sale makes

no reference to the car being involved in an accident. So, on that basis I don't feel I can reasonably hold Black Horse responsible for this.

Mr D additionally has raised the issue of the V5 document with the date of ownership showing as 24 May 2018, but his finance agreement is dated 5 July 2018. He also states the previous owner denied driving 4,000 miles from the MOT date of 5 June 2018 until Mr D took ownership of the car.

I've looked at these and can see that the V5C states that Mr D became the owner of the car on 24 May 2018, however his finance agreement is dated 5 July 2018. In regard to the mileage, I can see that it is recorded on the agreement as 63,889. However, on the MOT (dated 5 June 2018) it is recorded as 63,894, and in the service book (dated 16 February 2018) it is recorded as 60,000.

I appreciate there are some anomalies here that would be frustrating for Mr D. Black Horse has said the V5 document transfer date may relate to a previous failed sale. I don't know if that is the case or not, but I don't feel there is any evidence of fraud. And I don't feel this anomaly is grounds to allow Mr D to reject the car.

With regard to the mileage there is no actual evidence to confirm the previous owner didn't drive 4,000 miles between February and June 2018. And Black Horse has explained that the few miles difference between the mileage noted in the MOT in June 2018 and the mileage noted on Mr D's finance agreement was an administrative mistake. I think is a reasonable explanation and not grounds to allow Mr D to reject the car.

I understand that Black originally offered Mr D £150 compensation for the trouble and upset for the work that needed to be carried out on the car in August 2018. And £25 to cover the loss of use of the car whilst this work was being done. We have checked with Black Horse and this offer is still available. I leave it to Mr D to decide if he wishes to take this up or not.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 25 December 2020.

Bridget Makins
Ombudsman