

The complaint

Mr C complains Black Horse Limited (Black Horse) provided him with a car that he believes wasn't of satisfactory quality.

What happened

In January 2020, Mr C entered into a 49 month hire purchase agreement for a used car. The cash price of the car was £19,010 and it had covered around 2,800 miles. Mr C was required to pay instalments of £238 per month followed by an optional final payment of £8,447.

When Mr C took collection of the car, the dealership changed the battery. Thereafter on at least three separate occasions, Mr C reported issues with the battery – April, June, August 2020. He said the battery was draining excessively meaning the car was functioning or not working as it should.

He complained to Black Horse in August 2020 and due to the ongoing issues, he arranged for two independent inspections. The first inspection in October 2020 found a number of fault codes including some relating to the battery. The second inspection in November 2020 found that there were historic fault codes which hadn't been cleared when the car was previously inspected. Having cleared them, the engineer found the car was working as it should be. It concluded the reasons for the issues with the battery could've been as a result of the historic fault codes not being cleared, if the car had received software updates or if the car hadn't been adequately used to maintain the battery's voltage.

Black Horse considered the two inspection reports and said the issue with the battery was because Mr C hadn't covered the recommended mileage of the car, they noted he had only travelled around 1,544 miles in six months. They said the battery had discharged over time and this had impacted other functions such as the windows. However as a gesture of goodwill and without admission of liability, they agreed to reimburse Mr C for the cost of the two independent inspections (£720) and a breakdown call-out (£71.25) plus pay 8% simple interest.

Mr C asked our service to investigate. Our investigator recommended the case was partially upheld. They believed Black Horse agreeing to cover the above costs were fair but given the trouble and upset caused including multiple trips to the dealership, they should also pay £300 compensation. Black Horse agreed but Mr C didn't believe this was enough given the worry and upset this situation has caused him and the impact on his health. Mr C has told our service that he has since sold the car and acquired another one.

As an agreement couldn't be reached, the complaint has been referred to me to decide.

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 decided to uphold Mr C's complaint. I'll explain why.

Mr C acquired a car under a regulated hire purchase agreement. Black Horse was the supplier of the goods under this type of agreement meaning they are responsible for a complaint about the supply and the quality of the car.

The Consumer Rights Act 2015 (CRA) is relevant to this complaint. It says that under a contract to supply goods, there is an implied term that “the quality of the goods is satisfactory”. To be considered “satisfactory”, the goods would need to meet the standard that a reasonable person would consider satisfactory – taking into account any description of the goods, the price and all the other relevant circumstances. In a case involving a car, the other relevant circumstances a court would take into account might include things like the age and mileage at the time of supply and the car’s history.

In this case, Mr C was supplied with a used car that was around 12 months old and had travelled around 2,800 miles. Given the low mileage and the age of the car, I consider this car to be relatively new. So it would be reasonable to expect the quality of it to be higher than a more well used one and it would be free from defects and for a significant amount of time.

Mr C said at the time of acquiring the car, there appeared to be an issue with the battery and the dealership agreed to fix it before he took delivery of the car. Based on the evidence, I can see the dealership fitted the car with a new battery on 31 January 2020 which was just before Mr C took possession of it. However Mr C reported in April and in June 2020 that the battery was draining excessively and it’s impacting the use of the car. Having reviewed the job card in June 2020, I can see the battery was recharged by the dealership. At that point, the car had travelled around 1,170 miles while in Mr C’s possession.

I’ve carefully considered the two independent inspection reports which were arranged by Mr C. The first one shows fault codes including some related to the battery and the second one also confirmed there were historic fault codes. It comments when the battery was changed previously, the correct procedure would’ve been to check for any codes, clear them and check they haven’t returned but this hadn’t been done. It also said the fault could be due to the car not being adequately used to maintain the voltage. This report doesn’t give a definite answer as to what was causing the drainage of the battery. However I note once the engineer cleared these historic faults, they confirmed they were no longer present and the car was functioning without issue.

Having considered these reports, Black Horse has found the issue was due to Mr C not driving the car often. They’ve commented he hasn’t covered the recommended mileage but I note they haven’t provided an indication as to what mileage that is. Mr C accepts the car wasn’t used much because there was a nationwide lockdown due to the Covid-19 pandemic and from my understanding, he was shielding due to his health. Nevertheless it’s clear from the reports the car had been used during that time as it had travelled over 1,000 miles. I can also understand given this ongoing issue with the battery why Mr C was reluctant to use the car as he was losing confidence in it.

While I agree if a car isn’t used or only used for short journeys this could impact a car’s battery and in turn other functions, I don’t think a reasonable person would expect after having had a car for what I consider to be a short period of time, to experience such issues with the battery. Especially as the battery was replaced when it was supplied, meaning it was new. I’ve also taken into account Mr C’s comments that once the historic fault codes were cleared by the engineer during the second inspection, he didn’t experience any further issues with the battery.

Taking all of the above into account, I think it's more likely than not the fault with the battery was present and/or developing at the point of supply meaning the car wasn't of satisfactory quality. Meaning there was a breach of contract.

Where this happens and it's outside the initial 30 days of supply, the CRA allows one opportunity to repair. I'm satisfied this happened in April and June 2020 and these costs were covered by warranty. From November 2020, I understand the car started working as it should so on that basis, I don't believe it would be fair to say Black Horse should allow the rejection of the car meaning I won't be asking them to refund the deposit or the contractual payments as Mr C requested. Moreover, the car has since been sold and the agreement has presumably come to an end.

That said, I'm satisfied as a result of the car not being of satisfactory quality at supply, Mr C has incurred out of pocket expenses that is, the cost for the two inspections and a breakdown call-out. Black Horse has already agreed to refund these costs but they've done so without admission of liability but for the reasons explained above I find there was a breach of contract. So had they not already agreed to cover these costs, I would've asked them to do so. I know Mr C also believes he should receive compensation as a result of having to sell this car and acquire a new one. However as the car was working as it should by November 2020 as confirmed by Mr C, I find it was his decision to sell the car therefore I don't believe it would be fair to say Black Horse should pay compensation for this.

Lastly I've carefully thought about the impact this situation has had on Mr C including multiple trips to the dealership and having to arrange independent inspections. I'm also sorry to hear during this time he experienced ill health and he needed the car to attend medical appointments. I empathise with Mr C as I appreciate this would've been a difficult period for him. Additionally, despite Mr C raising this complaint to Black Horse in August 2020, their final response wasn't sent until March 2021. I believe they should've concluded their investigation sooner and by not doing so it has caused Mr C further worry as can be seen by his level of communication with Black Horse. Overall, I agree with the investigator that Black Horse should pay £300 compensation to Mr C for the trouble and upset caused.

My final decision

For the reasons set out above, I've decided to uphold Mr C's complaint.

To put things right, Black Horse Limited should:

- Reimburse Mr C for the cost of the two inspection reports and the breakdown call-out plus pay 8% simple interest per year from the date of payment to the date of settlement (if not paid already);
- Pay £300 compensation to Mr C for the trouble and upset caused.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 7 June 2022.

Simona Charles
Ombudsman