

The complaint

Mr P complains that a car acquired with finance from Black Horse Limited wasn't of satisfactory quality.

What happened

In July 2021 Mr P was supplied with a car and entered into a finance agreement with Black Horse. At the point of supply the car was around 2 years old and had covered 19,720 miles.

Mr P experienced issues with the car. The car was inspected, and repairs were attempted but the issues weren't resolved. Black Horse upheld Mr P's complaint about the quality of the car and said he could reject it. It said it would refund Mr P's deposit plus 8% interest and pay £200 compensation for distress and inconvenience. Black Horse said it wouldn't refund any monthly payments due to the usage charge it applied which charged one monthly repayment for every 1000 miles covered.

Mr P wasn't happy with Black Horse's response and brought his complaint to this service.

Our investigator partially upheld the complaint. She said it was reasonable for Black Horse to retain Mr P's monthly payments to reflect the use of the car. But she thought that Black Horse should increase its offer of compensation and refund all payments Mr P had made towards the warranty which had been financed under the agreement.

Mr P didn't agree. He said the dealership had told him to contact Black Horse about the issues and had advised him to keep paying monthly instalments. Mr P said he'd paid two further monthly instalments before Black Horse agreed the rejection.

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.

Black Horse has agreed that the car wasn't of satisfactory quality and that it can be rejected. So I won't comment further on the quality of the car. Instead, I'll focus on what's a fair and reasonable resolution to Mr P's complaint.

When a car is rejected, I'd expect the business to refund the deposit and to refund monthly payments subject to a deduction for usage. The relevant legislation allows the business to make a deduction for usage but doesn't specify how this should be calculated. A business may – as in this case – retain one monthly payment for every 1000 miles covered. Or it may apply a rate per mile for every mile covered.

Mr P's car had mileage of 19,720 at the point of supply. During the time he had the car, he covered mileage of around 20,500 in 10 months. So although the car had some issues, I'm satisfied that Mr P was able to use the car.

I don't think its unreasonable for Black Horse to retain Mr P's monthly payments to reflect his use of the car.

I appreciate that Mr P feels that he's made more monthly payments than he should've done before the rejection was agreed. However, I can see that at the time Black Horse issued its final response and agreed the rejection, Mr P had paid 10 monthly instalments and had covered around 20,000 miles. Mr P hasn't made any further payments since May 2022. In the circumstances, I don't think it's unreasonable for Black Horse to retain all of Mr P's payments. It has retained 50% of what it could have retained based on the charge of one monthly payment per 1000 miles.

That said, I recognise that Mr P has suffered a significant degree of distress and inconvenience as a result of being supplied with a car which wasn't of satisfactory quality, I agree with the investigator that Black Horse should pay more compensation than it has offered.

Mr P has paid towards a warranty as part of his monthly instalment [payments. These payments shouldn't be subject to the usage deduction and should be refunded to Mr P, together with interest.

Putting things right

To put things right, Black Horse Limited must:

End the agreement with nothing further for Mr P to pay

Arrange for the car to be collected at no cost to Mr P

Refund the deposit plus simple interest of 8% per year from the date of payment to the date of settlement

Refund the warranty payments plus simple interest of 8% per year from the date of payment to the date of settlement

Pay compensation of £300 for distress and inconvenience

My final decision

My final decision is that I partially uphold the complaint. Black Horse Limited must take the steps I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 27 April 2023.

Emma Davy
Ombudsman