

The complaint

Mr A complains Black Horse Limited trading as Land Rover Financial Services (Black Horse) hasn't done enough to put things right following the termination of his finance agreement due to him being supplied with a faulty car.

What happened

In September 2022, Mr A entered into a 49 month personal contract purchase (PCP) agreement for a new car. Its cash price was around £50,130. Mr A paid a £2,505 deposit and the rest was financed by a loan with Black Horse. The final optional payment should Mr A want to own the car was around £25,600. The monthly instalments were £654.

Around May 2023, Mr A reported a number of faults with the car. This included but not limited to:

- An abnormal intermittent noise when reversing and braking;
- Electrical faults when locking the door;
- Scratches on the interior and exterior of the car.

Following some back and forth and the lack of information from the supplying dealership, Black Horse agreed to end the finance agreement and collect the car. They also said they would do the following:

- Refund the deposit (£2,505);
- Refund the monthly instalments less a deduction for fair usage charged at 45p per mile for the 5,090 miles travelled (Black Horse to pay £3,595 to Mr A);
- Pay 8% simple interest per year on the above refunds;
- Pay £300 compensation for the trouble and upset caused.

In total Black Horse confirmed they would pay £6,691 to Mr A. However he complained this wasn't enough to put things right.

Mr A said he was an former employer of the car manufacturer in question and when buying the car he used a staff discount (employee privilege scheme), he wanted that to be reinstated so he could use it towards purchasing another car. He said he wanted to be reimbursed for a service plan he paid for. He also believed he should be refunded all the monthly instalments he had paid given the faults with the car. Black Horse maintained their stance but said if Mr A could provide evidence of the payment of the service plan, they would consider it.

Unhappy with their response, the complaint was referred to our service. Our investigator recommended the complaint wasn't upheld as he believed Black Horse had done enough to put things right. Mr A disagreed and maintained his stance.

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.

Mr A acquired a car under a regulated credit 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.

Black Horse accepts the car had a number of faults and wasn't of satisfactory quality so it's not necessary for me to comment on that any fault. What's left in dispute for me to consider is whether in light of the same, they've done enough to put things right. Having done so, I believe Black Horse have, I'll explain why.

Working out how to put consumers back in the position they would've been in had there not been a breach of contract isn't an exact science. However as a service, we try to put the consumer as close to that position as we can, taking into account what the relevant law says and what we consider to be fair and reasonable in the circumstances.

Where it's determined a car wasn't of satisfactory quality, I would expect the financial business (Black Horse) to do a number of things to put things right. This will include ending the agreement, collecting the car, refunding the deposit/part exchange amount. There may be a full or partial refund of the monthly repayments but that would be dependent on the use of the car, the refund of reasonable costs incurred as a result of being supplied with a faulty car, etc. In line with what I would expect, Black Horse has already done a number of these things.

I'm aware Mr A feels very strongly that he should be refunded the entire amount of the monthly repayments due to the faults with the car. He also comments as he couldn't initially resolve matters with the supplying dealership, he had to keep the car longer than he wanted. The investigator has already outlined what the relevant law says about how use of the car can be taken into account when considering the refund of repayments so I won't repeat them. In this case, Black Horse has confirmed they would refund the repayments less the mileage Mr A has covered. At the time they concluded their investigation, the car had travelled around 5,090 miles. So it's clear although there were issues with the car, Mr A was still able to drive it and do so for several months. On that basis, it's fair he pays to reflect that use.

Generally speaking in such situations, our service is likely to say to compensate for the impaired use of the car due to the faults, a proportion of the repayments should be refunded. That proportion will vary depending on the circumstances of each individual case. It's very unlikely we would say the entire repayments should be refunded when it's clear the consumer has had use of the car and for some time. This is because that would leave the consumer in a better position had the car not been faulty (essentially they've had use of a car for free). We don't consider that to be fair.

In this case, Black Horse confirms Mr A had paid a total of £5,886 in repayments. For the usage, they've charged it at a rate of 45p for each mile he's covered (5,090 miles) which equates to £2,290. Meaning Mr A will be refunded £3,596. Based on my calculation, that means roughly 60% of the repayments will be refunded to Mr A. This is a much higher proportion than our service would generally recommend based on cases of a similar nature so I can't say Black Horse have acted unfairly.

Concerning the service pack that Mr A said he paid for and wants to be refunded, I can't see that was a part of this finance agreement therefore I can't comment on it. But Black Horse

has said if he can provide evidence of the same, they would consider it. So Mr A will need to contact them directly about this.

In regards to the employee privilege scheme, again there is no reference of that on the finance agreement and from my understanding that was provided by the manufacturer, not the supplying dealership, nor Black Horse. Therefore, I can't hold Black Horse responsible for this or it's reimbursement/reinstatement. Mr A would need to speak to the party who provided this to him.

I've carefully thought about Mr A's comments about how the situation has impacted him. I'm sorry to hear the car didn't perform as expected and the effort he's gone to resolve matters including multiple trips to the dealership. Having considered the same, I'm satisfied the £300 compensation awarded by Black Horse is fair in the circumstances.

Summary

Overall, I'm satisfied Black Horse has done enough to put things right in this case. I won't be saying they need to do anything further to resolve this complaint.

My final decision

For the reasons set out above, I've decided not to uphold Mr A's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 25 March 2024.

Simona Reese
Ombudsman