

The complaint

Mrs C complains about a used car she acquired using a hire purchase agreement from Black Horse Limited. Mrs C is unhappy with the quality of the car and that Black Horse Limited has not accepted her request to reject the car.

What happened

Mrs C acquired a used car in June 2023. The car was approximately five and a half years old, had travelled approaching 74,000 miles and cost £15,580. The car had some issues shortly after Mrs C acquired the car and repairs were completed without cost to Mrs C.

Mrs C says that a couple of weeks after the repairs were completed an engine warning light illuminated and the car was taken to a main dealer for inspection. The car was inspected and a number of issues were highlighted, including worn brake pads, an issue with one tyre, the oil level being too high and a missing engine compartment under tray.

Mrs C complained to Black Horse Limited but it did not uphold her complaint. In summary it believed the issues were more wear and tear associated with the age and mileage of the car. Mrs C remained unhappy and referred her complaint to our service. One of our investigators considered what Mrs C and Black Horse Limited had provided and then set out the reasons why they did not consider the complaint should be upheld. This was broadly that the issues were more likely wear and tear issues and do not demonstrate the car was not of satisfactory quality when it was supplied to Mrs C.

The investigator also noted that Black Horse Limited had offered to cover any costs associated with draining the engine oil to the correct level.

Mrs C did not accept the investigator's conclusions and as the complaint cannot be resolved informally, it has been referred to me as the last stage in our process.

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.

First, I'm very aware that I've summarised this complaint in far less detail than the parties and I've done so using my own words. I'm not going to respond to every single point made by all the parties involved. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome.

Where the evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

I would also like to be clear that my consideration here will focus on the issues Mrs C raised as a result of the vehicle inspection only. A separate complaint has considered the initial issue with the car and whether those repairs were reasonable. I shall not therefore be commenting on that issue here.

Black Horse Limited was the supplier of the car to Mrs C through the hire purchase agreement. Our service can consider complaints about regulated hire purchase agreements and that includes the goods or services attached to the agreement. In this instance, the complaint relates to the quality of the car. As I'm sure the parties already know, the Consumer Rights Act 2015 is a relevant consideration in this case. In summary it requires the car to be of satisfactory quality when supplied to Mrs C and if it wasn't of satisfactory quality Mrs C would be entitled to redress from Black Horse Limited.

Satisfactory quality is defined within the Act as what a reasonable person would consider to be satisfactory, given the specific circumstances of the case. In this instance, when deciding whether the car was of satisfactory quality it is reasonable in my view to take account of the age and mileage of the car when supplied to Mrs C, along with the price paid.

The car price in this instance was not insignificant and I appreciate £15,580 is still a reasonably high sum of money to pay for a car. But this will be significantly less than the price of the car when new and the lower price will account for the age, mileage and in particular the wear and tear of the car. The car was approximately five and half years old and had travelled around 74,000 miles so it is reasonable to assume the car would not be in the same 'as new' condition when it first left the factory. This again is why the price of the car will be significantly less than the price required to buy the car from new.

Mrs C had the car inspected by a manufacturer linked garage and it identified a number of issues with the car. But while I appreciate Mrs C will be unhappy with the prospect of facing some maintenance costs, the issues raised in the inspection do broadly relate to general wear and tear issues in my view. More specifically, the split rear wiper, worn brake pads and a cracking/perishing drop link rubber are all things that will wear over time and need replacing. I have not seen anything to indicate the car was sold in an 'as new' condition and while Mrs C may not agree, it is not unreasonable to expect these sorts of issues on a used car of this age and mileage.

While the inspection report advises certain items are changed, I don't believe the issues would result in the car being in an unroadworthy condition. And I consider it also relevant to note that the car had by the time of the inspection travelled approximately 2,500 and these items would have worn over this time since the car was supplied.

The inspection referred to a non-repairable puncture that requires a replacement tyre. I have noted what Mrs C has said about the prior MOT comment on the tyres but that does not demonstrate to me the car was supplied with the puncture that the inspection identified. It is possible the puncture occurred in the approximate 2,500 miles of driving since Mrs C acquired the car.

The inspection report highlights the engine compartment undertray is missing and I accept the car is likely to have been supplied with an undertray when first manufactured. But as set out above, the car was aging and had travelled approximately 74,000 miles. It is not unreasonable in my view to expect some components to have been changed, not be the original parts supplied when new or in certain instances missing. The undertray is not a vital component to the car and the car can work perfectly well without it. The inspection report grades the severity of issues and I note the report refers to the missing undertray as 'A', which I understand to be 'Amber' on a scale of red, amber and green. So the missing undertray doesn't therefore appear to be of significant concern or a potential safety issue.

I also think that when buying a used car there is more of an expectation on the potential buyer to pay more attention to the appearance of the vehicle when compared to buying a brand new car. As mentioned above, some components might be changed, different or actually missing and this will again be one of the factors that impact on the price. The missing undertray would have been evident on a brief inspection of the engine bay.

Ultimately, having considered these issues in detail I am not sufficiently persuaded they are faults or defects that would result in the car being not of satisfactory quality at the time it was supplied to Mrs C. As explained above, considering the age and mileage of the car when supplied, I consider these issues more associated with general wear and tear in line with the age and mileage of the car. It is for these reasons that I do not consider Black Horse Limited is responsible for the repair of these issues. And for similar reasons, I do not consider there to be sufficient grounds to instruct Black Horse Limited to take back the car and end Mrs C's hire purchase agreement.

Finally, the inspection report highlighted the car's engine oil level was too high. This was recorded as 'R' for red and would require the oil to be drained to the correct level. It is unclear if the car was originally supplied with too much oil or if the oil level was affected by the previous work done shortly after the car was supplied (which is subject to the separate complaint). But in any event, Black Horse Limited has agreed to cover any costs associated with draining the oil and this is reasonable in my view. I do not consider there are sufficient grounds to require Black Horse Limited to do anything more than this.

My final decision

I again fully appreciate Mrs C will remain unhappy with the outcome reached here and especially as the car has not been used for some time now. But my final decision is therefore that I do not uphold Mrs C's complaint against Black Horse Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 1 July 2024.

Mark Hollands
Ombudsman