

The complaint

Miss S complains about the quality of a car supplied to her by Black Horse Limited trading as Land Rover Financial Services ("BH").

What happened

Miss S acquired a used car under a 49 month hire purchase agreement with BH in June 2023. The car cost £26,890. Miss S part exchanged her previous car for £2,252.25 and made a cash payment of £149. Under the agreement, Miss S was required to make 48 payments of £462.82, followed by a final payment of £9,726 if she wanted to keep the car. The total amount payable under the agreement, including the deposit, was £34,342.61. At the time the car was supplied to Miss S, it was around five years old and the recorded mileage was 60,745. The car was supplied by a garage I'll refer to as "D".

In October 2023, Miss S said she noticed the car was rattling and sounded like a tractor. She also said the engine management light ("EML") had been appearing intermittently. A breakdown company, who I'll refer to as "F", looked at the car. F said the timing chain was rattling. The car was booked in with D and it topped up the Ad Blue and engine oil. Miss S says she was also told there was a fault with the diesel particulate filter ("DPF") system.

In November 2023, the EML reappeared. F looked at the car again and found a number of fault codes. It noted that the car hadn't lost any power. D looked at the car and found there was a fault code stored for the camshaft position sensor and the timing chains had stretched. D fitted a new o2 sensor, welded the DPF heatshield, extracted a broken EGR bolt and fitted timing chains. The mileage was recorded as 67,602.

In December 2023, F looked at the car again. It found some fault codes stored on the car, noted an auxiliary belt rubbing noise was heard on the initial start-up and suspected a sticking valve. D looked at the car and noted the EGR filter flow was insufficient and the exhaust pressure sensor and pipe were blocked. It replaced these. D couldn't replicate Miss S's reported fault of the alarm going off and it noted the tyre had a small hole in it and carried out a puncture repair.

D let Miss S know the car had been repaired in January 2024. But Miss S says she told D she wouldn't collect it due to her lack of confidence in the car and the anxiety it had caused her. Following this, Miss S wrote to BH and said she wanted to reject the car with a full refund as she had experienced multiple faults with the car within six months of owning it.

BH issued its response to Miss S's complaint in February 2024. It said that D had repaired the car at no cost to Miss S under the extended warranty and currently there were no issues with it. It also offered Miss S £250 for any distress or inconvenience caused.

Unhappy, Miss S referred a complaint to this service. She reiterated her complaint and said she hadn't picked up the car as she felt unsafe driving it. She said she was disappointed as she hadn't received a courtesy car from D on all three occasions repairs were carried out. To put things right, she said she wanted a refund of all her monthly payments and deposit, bus fares, a car rental bill she incurred and finally a payment for the inconvenience caused. She also said D failed to disclose that the car had a problem with the exhaust in April 2023.

Our investigator looked at the complaint and said that there were likely faults with the car but the repairs that had been carried out had resolved these issues. She said the faults with the

DPF and o2 sensor were wear and tear issues and so, she didn't think they made the car of unsatisfactory quality. She said the £250 offered by BH for the distress and inconvenience was fair and reasonable in the circumstances.

Miss S disagreed and said our investigator hadn't taken into consideration how the car failed its MOT a few days before she picked it up. Our investigator said whilst the MOT failed prior to Miss S collecting the car, it was then passed after repairs were carried out. She also said MOT information was public information which Miss S could have reviewed before entering into the agreement.

Miss S said she didn't look at any prior information for the car as she was reassured by D that the car was high quality. She said issues with the DPF weren't repaired and whilst she did make use of the car, she also had to take it in for repair three times and so it shouldn't have been advertised as an approved car. She said whilst she bought a used car, the cost around £27,000 and so, there shouldn't have been any faults with it whatsoever.

Miss S also confirmed that she picked up the car from D and since then, the gearstick dial gets stuck occasionally and parking sensors were working intermittently. She said she had booked the car in with D. She also said the car broke down in May 2023 and F said the battery was dead. She says following this the car was taken on holiday and it had smoked twice. She says she was told there was a hole in the EGR pipe. However, she said D had repaired this previously. She also later told this service in June 2023 that the car had a fuel leak. She said the car was a faulty car.

Our investigator said this service couldn't consider these issues as these occurred after the repair. She said Miss S would need to refer a complaint about these issues to BH in the first instance and if she remained unhappy with its response, she may be able to refer a complaint to this service.

As Miss S remains in disagreement, the case has been passed to me to decide.

As our investigator has said, I'll only be considering the issues that took place before BH issued its final response in February 2024. I won't be considering any subsequent faults Miss S has told this service about as BH has not been provided with an opportunity to review these issues as part of this complaint. Our investigator has explained to Miss S how she can raise a new complaint about the subsequent issues should she wish to do so.

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.

Where evidence is incomplete, inconsistent or contradictory, I reach my view on the balance of probabilities – in other words, what I consider most likely to have happened in light of the available evidence and wider circumstances.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time.

Both parties have provided a good deal of evidence, so I've had to summarise things in this decision. The rules of our service allow me to do this, but I want to assure the parties, if I don't mention every single point that's been raised, it's not because I haven't thought about it. I have considered everything that's been said and sent to us. However, I'm going to concentrate here on what I consider is key to reaching a fair and reasonable outcome overall.

What I need to decide in this case is whether the car supplied to Miss S was of satisfactory quality. If I don't think it was, I'll need to think what's fair, if anything, to put things right.

The finance agreement in this case is a regulated hire purchase agreement. So our service is able to consider complaints relating to it. BH is the supplier of the car under this type of agreement and so is responsible for dealing with a complaint about its quality.

The Consumer Rights Act 2015 ("CRA") covers hire purchase agreements. Under a hire purchase agreement, there are implied conditions that the goods supplied will be of satisfactory quality.

Miss S acquired a car that was used – so there would be different expectations compared to a new car. Having said that, the car's condition at the point of supply, should have met the standard a reasonable person would consider satisfactory, taking into account its age, mileage and price. The CRA says the aspects of the quality of the goods includes their general state and condition alongside other things such as their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability.

In this case, Miss S first raised issues with the car around three months after she was supplied with it. F said the timing chain was rattling. In November 2023, D found a fault code stored for the camshaft position sensor and the timing chains had stretched. In December 2023, D looked at the car and noted the EGR filter flow was insufficient and the exhaust pressure sensor and pipe were blocked.

I've seen a copy of all three breakdown reports from F and D's job sheets showing the repair work that was carried out. Based on this, I'm satisfied that the car had faults. I now need to consider whether these faults make the car of unsatisfactory quality.

The first time the car was taken to D in October 2023, the car was topped up with seven litres of Ad Blue and one litre of engine oil. The technician noted that the engine oil was on the minimum level. However, F's report which was completed before D saw the car noted that the engine oil was okay. D noted the mileage as 66,521.

Having considered this carefully, Ad Blue and engine oil are both items that will need topping up as part of the car's routine maintenance. Miss S had been able to complete 5,776 miles in the car at the point the issue took place in October 2023. So whilst the issue occurred within three months of Miss S being supplied the car, I consider that the issue was caused due to wear and tear and so, I don't consider that the issues which occurred in October 2023 made the car of unsatisfactory quality.

In November 2023, F found a number of fault codes stored within the car. Upon further inspection, D found fault codes for the camshaft position sensor and said that the timing chains had stretched. D fitted a new o2 sensor, welded the DPF heatshield, extracted a broken EGR bolt and fitted timing chains. It said following a road test, there were no reported concerns picked up. D recorded that the mileage was 67,602. This means that Miss S had around travelled 6,857 miles in the car since she acquired it.

The job sheet from D doesn't confirm why the issues have occurred with the car. But given that the car had travelled around 67,602 miles at the point of failure, I don't consider the faults unreasonable. I'm satisfied that the issues that occurred are all serviceable items. The timing chain can become stretched over time due to oil contamination which can occur. This results in the timing chain no longer having the lubrication it requires to work effectively and so, it causes wear to the timing chain which can result in it stretching. Similarly, an o2 sensor can last around 90,000 miles but this doesn't mean that it can't fail sooner than this due to wear and tear. If it does, it doesn't mean that the car was of unsatisfactory quality.

In December 2023, F noted there were fault codes stored in the car. D said the EGR filter flow was insufficient and the exhaust pressure sensor and pipe were blocked. So it replaced these. This repair took place after the car had completed 68,268 miles. Having considered the faults that occurred, there is no confirmation why these faults occurred. However, I'm satisfied that the faults that did occur are all serviceable items and will be susceptible to wear and tear.

I also appreciate that Miss S only had the car for around three months before she reported issues with it, but she was able to cover around 5,750 miles in the car without fault. Considering the age and mileage of the car at the time Miss S first noticed any issues, I'm satisfied that it's more likely than not that the faults Miss S has complained about occurred due to wear and tear. I consider that the issues developed and deteriorated after Miss S was supplied the car. And so, it follows that I think the car was of satisfactory quality when it was supplied to Miss S.

I appreciate that Miss S has said that a car which costs around £27,000 should not have any faults whatsoever. However, the car she acquired was five years old and had been previously used for around 60,000 miles. Had she purchased the car brand new, it would have cost around £45,000, with no previous use. Given this, I think a reasonable person would consider that it would be reasonably expected that some faults may occur with the car as the car had already had notable use and Miss S didn't pay full price for it.

Miss S has also mentioned that the car failed an MOT prior to being supplied to Miss S. I accept the car did fail an MOT, but as our investigator has pointed out, the car passed an MOT a couple of days after the failure and so, the car was considered roadworthy.

I've also not seen any supporting information to confirm that the car had a DPF issue at any point prior to the DPF shield being welded in November 2023. Miss S says she was told this by D, but there isn't any supporting information to confirm this. And so, I'm not persuaded that there was an issue with the DPF prior to this.

Having said this, even if I'm wrong about all this, Miss S accepted repairs to the car on all three occasions that she took the car back to D. Miss S says she rejected the car and has provided an email to show this. However, the car was taken to D on 15 December 2023 and repairs were initiated by D. On 27 December 2023, Miss S emailed D to say she wanted to stop the contract as it was her only option and that she wanted a full refund of the payments made so far. However, the CRA says that if a consumer opts for a repair of the goods, they can't then ask for a replacement or to exercise their right to reject. So, because Miss S had agreed to repairs and only indicated she wanted to reject the car after returning the car to D for repairs, she lost her right to reject the car for these issues.

I appreciate this is likely to come as a disappointment to Miss S and I'm sorry to hear about how she has been affected by the fault with the car. But overall, I think the car supplied to Miss S was of satisfactory quality and so, it follows that I don't require BH to do anything to put things right.

BH has offered to pay Miss S £250 for any distress and inconvenience caused. Miss S should contact BH directly if she would like to accept this amount.

My final decision

I do not uphold Miss S's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 12 November 2024.

Sonia Ahmed
Ombudsman