

The complaint

Mrs O complains about the quality of a car Black Horse Limited trading as Land Rover Financial Services supplied to her under a hire-purchase agreement.

What happened

In October 2021 Mrs O entered into a hire-purchase agreement with Land Rover Financial Services so she could get a Discovery Sport 2.0L Diesel she'd seen at a Land Rover dealer "H". The car was first registered in March 2018, and its mileage stood just over 24,000. It had a cash price of £30,015, to be repaid over 48 monthly payments of £519.45, with a final lump sum payment of £11,078 due at the end of the term.

Unfortunately, in January 2024 the car suffered an engine failure. The car's mileage was by that point just over 52,000. Mrs O asked H, who had carried out service maintenance on the car, to investigate. H diagnosed the problem as being caused by a snapped timing chain. The failure wasn't covered by any warranty on the car and Mrs O faced a repair bill of around £16,000.

H said that the manufacturer had said it was willing to contribute part of the repair cost, but Mrs O didn't find this acceptable. She didn't think the car was of satisfactory quality and complained to Land Rover Financial Services. In doing so she supplied information she'd obtained from various sources about possible reasons for the timing chain failure, suggesting that this was a known and inherent design flaw with the engine.

Land Rover Financial Services didn't accept that there was a lack of satisfactory quality. It noted the mileage Mrs O had undertaken and concluded that the fault identified would not have been present or developing at the point the car was supplied to her. On this basis, Land Rover Financial Services said it wasn't liable to Mrs O. It said that given the passage of time, under the relevant legislation (the Consumer Rights Act 2015 ("CRA")) it was Mrs O's responsibility to provide sufficiently persuasive evidence to the contrary, and that absent this, it would not be taking any further action.

Mrs O was unhappy with Land Rover Financial Services' response and referred her complaint to us.

Our investigator also noted the obligations implied into the contract by the CRA; particularly that there was a duty to ensure the car was of satisfactory quality. He wasn't persuaded that Land Rover Financial Services had met this requirement.

The investigator felt that the problems Mrs O had experienced with the car at the stated age and mileage pointed towards a lack of durability. That was one of the factors referenced in the CRA as being relevant to satisfactory quality. Noting there had been some discussion around the car's service history prior to Mrs O acquiring it, the investigator noted that H had said that this would not have been a material factor. H had also said the car went through multiple checks over the years before the timing chain failure, without the engine management system flagging any issues.

By this stage Mrs O had exercised her right to voluntary termination of the hire-purchase agreement and no longer had the car. However, she was receiving continued correspondence from Land Rover Financial Services regarding outstanding finance, which caused her concern due to the potential impact on her credit file.

Requiring repair of the car was no longer a viable way to resolve matters. So our investigator instead recommended that Land Rover Financial Services put Mrs O as close as possible to the financial position she would have been in had she been able to reject the car when it broke down in January 2024. He proposed that it refund (with interest) Mrs O's deposit and all payments she'd made in connection with the hire-purchase agreement since January 2024, amend her credit file and pay her £250 compensation for her distress and inconvenience.

Land Rover Financial Services didn't accept the investigator's conclusions. It said after discussing the case with the car manufacturer its position was unchanged. In line with our process, the complaint has therefore been passed to me for review and determination.

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.

As has already been observed, because Mrs O acquired the car from Land Rover Financial Services as a consumer, the arrangements are covered by – among other things – the CRA. One effect of the CRA is that the sale agreement is to be read as including a term that the car would be of satisfactory quality. Whether goods are of satisfactory quality is determined by reference to whether they meet the standard a reasonable person would consider satisfactory, taking account of matters such as price and description, and includes (among other things) matters such as appearance and finish, freedom from minor defects, safety and durability.

Mrs O's claim is that the car Land Rover Financial Services supplied to her failed to meet at least some of these requirements, and therefore that it was not of satisfactory quality.

I'm fully aware the car was not new. The standard a reasonable person might expect from it would be lower than for a car that was brand new. Buying a used car carries some inherent risks, not least of which is that sooner or later items will need repair or replacement. That said, the timing chain isn't generally an item one would expect to have to replace on a five-year-old car with overall mileage that wasn't particularly high. So the failure of that item at a relatively early stage in the car's life presents a question over whether the timing chain itself fell short of the general expectation of durability a reasonable person might have.

Given the timing chain's failure at this point, there was a clear line of enquiry that should have prompted Land Rover Financial Services to look further into that question. Mrs O had presented it with a claim that, on the face of it, suggested it had failed in its obligation to supply a car of satisfactory quality.

I'm not persuaded that Land Rover Financial Services acted fairly in the way it responded to that claim. Land Rover Financial Services appears to have focused on whether the timing chain failure was a fault present at the point of supply, rather than considering the possibility that the failure was merely a consequence of an underlying issue – a lack of durability – that was present at that point.

I don't consider Land Rover Financial Services' argument that Mrs O was able to use the car for just over two years means the car was sufficiently durable. She could (and did) expect to

get rather more use from it than that. I think the reasonable person referenced in the CRA would be unlikely to consider that in such circumstances the car was of satisfactory quality.

I've noted what's been said about the service history of the car. I can't properly find that this points away from a lack of durability. The car's service record shows it was frequently serviced by H during the time Mrs O had it, well within the manufacturer's specified intervals. She appears to have been a diligent keeper of the vehicle. And H has itself said that the late first service would not have been the cause of the timing chain failure. So logically, the explanation must lie elsewhere.

I've not seen anything to suggest Mrs O drove the car in any particular manner that might have caused the timing chain to fail. And H's comments would also appear to preclude this, noting as it did that the car had multiple checks over the years without any sensors being triggered to suggest a problem.

Absent any other plausible explanation for the sudden and catastrophic failure of a vital part of the engine that had covered only 52,000 miles at the time, I find it reasonable to infer from what happened that the car was insufficiently durable. While it has been open to Land Rover Financial Services to offer evidence of a different root cause, it has not done so

Overall, and on the balance of the evidence presented to me, I find that Land Rover Financial Services didn't deal fairly with the situation by declining Mrs O's claim for the reasons it gave, and that it failed to have proper regard for its potential liability to her.

Putting things right

Noting the remedies available to Mrs O under the CRA¹, Mrs O ought to have been entitled to exercise her right to require repair of the car at no cost and without significant inconvenience to her. Because Land Rover Financial Services was unwilling to agree to this remedy, Mrs O returned the car under the voluntary termination provisions of the hire-purchase agreement. She shouldn't lose out financially as a result of Land Rover Financial Services' decision.

With this in mind, I think the alternative remedy our investigator proposed is a fair way to resolve the complaint, addressing as it does the current position while recognising the use Mrs O was able to make of the car before it broke down. Had Land Rover Financial Services dealt with the claim fairly in the first instance, it seems unlikely it would have gone on to issue correspondence to Mrs O regarding outstanding sums, which undoubtedly added to her overall sense of distress and concern. Nor is there any reason for me to think it would have recorded adverse payment information on Mrs O's credit file.

For clarity, I've decided the appropriate way for Land Rover Financial Services to resolve Mrs O's complaint is as follows:

1. Refund Mrs O's deposit of £1142.80
2. Refund all payments Mrs O made in connection with the hire-purchase agreement after the car failed in January 2024
3. Amend its records to show that the hire-purchase agreement was settled with no further payments due from Mrs O from the point specified in 2. above
4. Amend any information reported on Mrs O's credit file to reflect the position in 3. above

¹ Section 23 of the Consumer Rights Act 2015

5. Pay interest on the amounts in 1. and 2. above, calculated at an annual rate of 8% simple from the date of each payment (and in the case of the deposit mentioned in 1., the point specified in 2.) until the date it pays this settlement
6. Pay Mrs O £250 to compensate her for the distress and inconvenience that she's been caused

My final decision

My final decision is that I uphold Mrs O's complaint. To settle it, Black Horse Limited trading as Land Rover Financial Services must, within 28 days of receiving Mrs O's acceptance of this decision, take the steps I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs O to accept or reject my decision before 13 November 2024.

Niall Taylor
Ombudsman