

The complaint

Miss O complains about the satisfactory quality of a car supplied to her by Black Horse Limited trading as Land Rover Financial Services ("LRFS"). Miss O also believes there was a misrepresentation in relation to a second key that she thinks should have been supplied with the car when she acquired it.

What happened

In July 2023, Miss O acquired a used car using a hire purchase agreement with LRFS. At the point of supply, the car's mileage was around 5,500 miles and it was less than a year old. The cash price of the car recorded on the agreement was £44,030. A deposit of £25,000 was paid and the duration of the agreement was 36 months.

Miss O was unhappy with how she was treated when she was supplied the car and with several aspects of it in the following months. In summary and among other things, Miss O believed:

1. It was not disclosed to her that the car didn't have a second key. Later, in October 2023, the car was arranged to be returned to the supplying dealership for a key to be supplied and coded, but there was an issue with the body control module, which needed to be replaced.
2. After the car was taken back to the supplying dealership in October 2023 to have a key supplied and coded, it began to have engine issues. She said since then, the car was unreliable, and it cut out while driving. And Miss O said the window was left open when it was raining heavily on the day the car was returned to her, damaging it.
3. A courtesy car wasn't provided within a reasonable time when her car was undriveable due to engine issues. Miss O then said once a courtesy car was supplied, she was regularly contacted to return it.
4. The car continued to have engine related issues and she didn't think it was safe to drive.

Miss O complained to LRFS in December 2023 and they responded in January 2024. They said they were not liable for any damage to the window left open as the damage occurred after sale.

They also said the car cutting out and engine issues were due to a third-party installation of a ghost immobiliser after the point of supply, rather than any problem with the quality of the car supplied. They said that once the third-party component was removed, there were no further issues with the car cutting out.

They also said that Miss O was aware that the car wasn't supplied with a second key, and that it would be provided later, but still proceeded to take the car. And LRFS also said that the body control module was replaced in the car, which initially caused key programming issues. In summary, LRFS didn't uphold Miss O's complaint.

Unhappy with LRFS's response, Miss O referred her complaint to our service in January 2024. Miss O didn't think the third-party component was the reason the car was having

engine issues as it had been installed for around two months before the car was looked at by the supplying dealership in October 2023. Miss O also said that a vehicle health check was completed on the car, and it didn't show any issues with the engine prior to the supplying dealership working on it in October 2023. Miss O refused to collect the car from the supplying dealership as she believed it to be a safety risk. She believed there were still unresolved engine issues with the car that deemed it too dangerous to drive.

In April 2024, the supplying dealership confirmed they still had possession of the car and it hadn't been collected by Miss O.

Our investigator didn't uphold Miss O's complaint. Among other things, he explained that he thought there was a fault with the car in relation to the body control module. He went on to explain that the engine related issues with the car were rectified by removing a third-party component which was added to the car after the point of supply. The investigator also said that he believed Miss O was aware that a second key would be supplied at a later date, and he thought the timeframes in which a courtesy car was provided was fair and reasonable.

Miss O disagreed with the investigator's findings. Among other things, she said that after her car was given back to her in October 2023, it never properly worked again. She said the Engine Management Light ("EML") illuminated on the car's dashboard and she thought the supplying dealership incorrectly blamed the issue on the third-party component that was fitted to the car. Miss O also believed she wasn't informed that the car only came with one key instead of two.

Miss O also believed the investigator incorrectly thought the second key could only be coded after the third-party component was removed, when in fact it could be supplied and coded before the component was removed.

Unhappy with investigator's findings, Miss O asked for the complaint to be referred to an ombudsman. And so, it has been passed 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.

Having done so, I'm not upholding this complaint and I'll explain why below.

There are two main aspects to Miss O's complaint against LRFS. Firstly, Miss O believes the car supplied to her wasn't of satisfactory quality. Secondly, Miss O believes there was a misrepresentation in relation to a second key that she thinks should have been supplied with the car when she acquired it. I have considered these points in turn.

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 point or argument to be able to reach what I think is a fair outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as an alternative to the courts. In addition, I mean no discourtesy to either party to summarise the circumstances of this complaint as briefly as I have done so above.

Miss O complains about a car supplied to her under a hire purchase agreement. Entering into consumer credit contracts such as this is a regulated activity, so I'm satisfied I can consider Miss O's complaint about LRFS.

The satisfactory quality of the car supplied

When considering what's fair and reasonable, I take into account relevant law and regulations. The Consumer Rights Act 2015 ("CRA") is relevant to this complaint. The CRA explains under a contract to supply goods, the supplier – LRFS here – has a responsibility to make sure goods are of satisfactory quality. Satisfactory quality is what a reasonable person would expect – taking into account any relevant factors.

I would consider relevant factors here, amongst others, to include the car's age, price, mileage and description. So, it's important to note that the car Miss O acquired was used, less than a year old, with less than 6,000 miles having been driven in it. I think a reasonable person would expect it to be in very good condition, with no faults or issues. And I think they would expect trouble free motoring for a significant period.

What I need to consider is whether the car was of satisfactory quality when it was supplied. And in order to do that, I first need to consider whether the car developed a fault.

A fault with the body control module

In October 2023, Miss O's car was returned to the supplying dealership to have a second key supplied and coded for the car. During that time, a vehicle health check was completed on the car. Among the check, it said:

"Unable to carry out key and kvm replacement due to BCM locked required bcm to be fitted..."

In email correspondence supplied by LRFS, they have also confirmed that the body control module needed to be replaced for a second key to be supplied. Considering the above, I'm satisfied there was a fault to the body control module of the car. And considering the fault presented itself shortly after the car was acquired, I'm satisfied the fault was present or developing at the point of supply.

A fault with the engine and water damage to the car

Once Miss O's car was returned to her in October 2023, following the failed attempt by the supplying dealership to supply a second key, Miss O said she experienced further issues with it. Miss O said the car was very wet inside due to a window being left open when it rained. Miss O also said she experienced engine issues and provided a photo of her car's dashboard which shows that the EML was illuminated. Miss O also gave an example of a time shortly after the car was returned to her where the engine cut off intermittently while driving.

Miss O believes there were no issues with the engine before she returned the car back to the supplying dealership in October 2023.

On the other hand, LRFS say they took the car back for cleaning and inspection because of any damage caused by the rain, so that resolved any issues there. And they say after several weeks of not being able to identify or replicate the fault with the car, they later believed it occurred due to a third-party component which was installed on the car after the point of supply. Once the component was removed, LRFS say there are no longer issues with the car. So they considered this to show the cause of the problem was the third party component, rather than a problem with the car itself.

I have seen an email which was addressed to Miss O and sent by the third-party installer of the component to the car. In summary, it explained that their engineer did a diagnostic check and couldn't find a problem with the immobiliser that was installed on the car and the device was working correctly. They said the dealership requested to have the device removed and

the engineer did so as requested. In essence, they didn't think the component fitted to the car was causing problems with the engine.

So, I'm mindful there are two differing opinions here. LRFS say the third-party component fitted to the car after the point of supply was causing the issues – and they are unable to find a fault once it was removed. And Miss O believes the third-party component didn't have an impact on the car and that engine related issues with the car are still ongoing.

I've also noted that Miss O was reluctant to collect the car from the supplying dealership and she hasn't had possession of it for over a year. So, it isn't clear from what I have seen whether there is a fault with the engine. I don't think Miss O has mitigated her circumstances here. Had she collected the car sooner when the supplying dealership informed her it was ready to be collected, if issues were present, evidence could have been supplied to our service to support her version of events, such as an independent inspection report.

However, I haven't been shown anything to confirm whether there is a fault with the engine or whether faults with the car persist. I also think that now, due to the time that has passed, it would be difficult to determine whether any possible faults with the car were due to issues which presented themselves in October 2023 or now as a result of the car being left dormant and unused for over a year.

Remedies available under the CRA

I've gone on to think carefully about the remedies available to Miss O under the CRA. One of the remedies available to Miss O is repair.

LRFS has explained that the battery control module was fitted, which meant a second key for the car could be supplied. So, broadly speaking, Miss O's rights under the CRA have been met here as the fault with the car had been rectified.

In addition, from the evidence I have seen, I'm not satisfied that there is a fault with the engine, nor any lasting damage because of rain entering the car.

So, it follows that I can't conclude that Miss O has the final right to reject the car due to a failed repair or due to an underlying fault that was never put right.

Misrepresentation in relation to the second key

Miss O complains, among other things, that she believes it wasn't disclosed to her that the car didn't come supplied with a second key immediately and that it would be supplied later. Miss O complains that she was only made aware, once steps were taken to acquire the car, such as paying a deposit and having ceramic paint protection applied to it.

I have carefully considered what Miss O has told our service here, alongside what LRFS has said.

When considering what's fair and reasonable, I take into account relevant law, regulations and guidance. The CRA is relevant here. It explains, in summary, that goods supplied must match the description given.

Section 56 of the Consumer Credit Act 1974 ("S56") is also relevant to this complaint. S56 explains that, under certain circumstances, a finance provider is liable for what was said by a credit broker or supplier before a credit agreement is entered into. I'm satisfied S56 applies here. So, I can consider what Miss O says she was told about the car and finance by the dealer before she entered into the contract.

What I need to consider here is whether the car didn't meet a description or was misrepresented to Miss O. A misrepresentation would have taken place if Miss O was told a '*false statement of fact*' about the car, and this induced her into entering into the contract to acquire it when she otherwise would not have.

It's worth stating up front, that a misrepresentation would not have occurred if Miss O was explicitly told that the car wouldn't be supplied with a second key at the point of supply. A false statement of fact would need to be made – so I'll consider if Miss O was told that the car would be supplied with a second key at the point of supply. The same applies when considering if the car matched a description – the car would need to be described as being supplied with two keys or incorrect details given about the keys, rather than a description not being given, for this to be the case.

I have seen a copy of a letter Miss O sent the supplying dealership dated 26 December 2023. The first sentence of the letter said:

"On 28 July 2023 you sold to me the above-mentioned vehicle with the promise that you will provide me with an extra coded key on the earliest date."

The sentence above suggests to me during the sales process, it was disclosed to Miss O that a key would be supplied later. In addition, I haven't been provided with any advert or sales material which shows that Miss O was told the car would be supplied with a second key. And Miss O hasn't said that she was explicitly told during the sales process that the car would be supplied with a second key.

I'm satisfied Miss O was not told a false statement of fact about the second key before entering into the agreement. It follows I don't think the supply of the second key was misrepresented to Miss O. And the same logic above can be applied as to why I'm satisfied the car supplied to Miss O was as described.

The supply of a courtesy car

Miss O says on occasions she wasn't kept mobile with a courtesy car when her own car was unavailable. For example, in November 2023, she handed her car in to be investigated for issues she believed the car had, but was only given a car a day later.

While I appreciate it may have been frustrating for Miss O to not be kept mobile for short periods of time, I have noted that a courtesy car was given when her second key was due to be supplied and coded. And she was given a courtesy car a day later, in November 2023, when her car was taken in to be investigated. I also haven't been supplied with anything to show the impact on Miss O for a courtesy car being supplied a day late. So, I don't think LRFS needs to do anything further in this instance.

Miss O also says she was persistently chased to return her courtesy car. I have noted this was during the period where the supplying dealership believed any engine related issues which presented themselves was due to the third-party component which was installed to the car. When it became apparent to them that an issue with the car related to a third-party component, I don't think it was unreasonable to request for the courtesy car to be returned.

In summary, I don't think LRFS needs to do anything further in relation to this complaint.

My final decision

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss O to accept or reject my decision before 6 March 2025.

Ronesh Amin
Ombudsman