

The complaint

Mr S complains about a car acquired through a Hire Purchase agreement with Black Horse Limited ('Black Horse'). After Mr S had problems with the car's battery, it was repaired, but he says the problems have returned and he now wants to reject the car.

What happened

Mr S acquired the vehicle in March 2023. When it was supplied, it was six months old, had covered 1,224 miles and cost £24,678.

Mr S has described a battery fault where the car isn't covering the mileage it ought to. Mr S says he should be allowed to reject the car, as the previous repairs haven't fixed the issue.

A pre-sale check from 3 March 2023 didn't highlight anything specific to the operation and capacity of the battery. Other than that its 'terminals and security' passed a check.

A roadside recovery report from August 2023, where the mileage was 3,752, shows a traction battery fault, requiring further diagnostics and repair. A diagnostic shows multiple battery related fault codes. It also said the dealership had rejected the car that day so the recovery firm had to wait for a booking confirmation to drop the car off.

Mr S complained about these issues in October 2023.

Black Horse responded to the initial complaint in November 2023. According to the final response, Mr S had complained that as far back as April 2023 a 50 mile journey had depleted the battery range by 220 miles. The car was recalled for a charging issue, but the manufacturer couldn't confirm this was causing the range issue. And the dealership said it hadn't carried out this recall.

The dealership told Black Horse that it was the traction battery which was faulty and needed replacing. This would be done under warranty but they'd be waiting on parts.

Black Horse said it agreed with Mr S's complaint, it felt the issues were likely present at the point of supply, arranged the repair of the car, paid him £100 compensation and £158.27 to reflect the time he wasn't able to use the car.

Mr S has provided a list of charging invoice confirmations from March to August 2023 and has provided notes on five journeys where he says the charge depleted more than the mileage actually travelled. According to his notes the coverage varied from between roughly 60% to 90% of the range.

He has also provided evidence of charging costs both at home and charging points between March and December 2023, totalling £1,526.20, which he's asked to be compensated for.

After Mr S complained further, Black Horse agreed to offer an additional £223.01 to cover the time when Mr S was in a courtesy car, making the total offered £485.82.

The car was repaired and returned to Mr S around mid-December 2023.

Mr S contacted Black Horse in March 2024 to say he was still experiencing issues and it said if he provided a diagnostic it would review the complaint. It also advised he could contact our service, which he then did.

The investigator who first considered the complaint thought the car wasn't of satisfactory quality. They were persuaded by Mr S's account that after the battery replacement had taken place he was still experiencing range issues with the battery charge.

They said Mr S had made Black Horse aware of the continuing issues, but it didn't investigate the issue further. So they thought it was fair for him to be able to reject the car.

They thought Mr S should be refunded 25% of his payments while he had the car, 100% of his payments during the repair when he didn't have a courtesy car, but Black Horse could keep the payments for the period where Mr S was provided a courtesy car – minus any amounts already paid to reflect impaired or lost use. They thought Mr S should be paid £250 compensation, plus the £100 already paid, for the distress and inconvenience caused.

Black Horse felt there wasn't enough evidence to say there had been a further fault after the initial repair attempt and so there were no grounds to reject the car. It said the repair was still under warranty and could be booked in to a main dealer to complete a diagnostic test.

It said under the Consumer Rights Act 2015 Mr S would have a right to reject the goods if the repair had failed, but there wasn't anything to confirm this was the case. It said the manufacturer's information indicates battery range can be influenced by a number of factors and it felt it would be reasonable for a diagnostic to take place to confirm that any range issues are the result of a fault.

Our investigator thought Mr S's description of the further faults was persuasive. Black Horse asked for the case to be reviewed by an ombudsman and so it has been passed to me to issue a final decision.

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.

I'm required to take into account the relevant laws and regulations; regulators rules, guidance, and standards; codes of practice and, when appropriate, what I consider to have been good industry practice at the relevant time. I may not comment on every point that's been raised, but I have read and considered everything that's been said. Instead I will focus on what I think are the key points to reach a fair and reasonable decision. This reflects the nature of our service which was set up to be an informal alternative to the courts.

Where information or evidence is missing or contradictory, I'll make my decision based on the balance of probabilities – that means what I consider to have more likely than not happened – given the available information.

I will lay out what I consider to be the key facts and the considerations I've taken into account when reaching my decision.

Mr S acquired the car through a Hire Purchase agreement with Black Horse. Under this type of arrangement, Black Horse became the supplier of the car and is responsible if the goods provided aren't of satisfactory quality. The key legislation for me to consider in complaints of

this nature is the Consumer Rights Act 2015 ('CRA'). This outlines, among other things, that goods should be of satisfactory quality at the time they're supplied.

Satisfactory quality is described as the standard that a reasonable person would expect taking into account, among other things, the description, age and price of the goods. The quality of the goods includes their state and condition - and where appropriate their fitness for purpose, appearance, freedom from minor defects, safety and durability should be taken into account.

As confirmed above, Mr S acquired the vehicle in March 2023. When it was supplied, it was six months old, had covered 1,224 miles and cost £24,678.

In these circumstances, where the car is very near new and has had very little use, there might be very minor cosmetic or wear and tear issues, but overall it's reasonable to expect the car to remain fault free for a considerable period of time.

In this case Mr S complained of battery faults experienced from April 2023, soon after acquiring the car. And it failed entirely by August 2023. At this point repairs were carried out and it was accepted the battery was faulty. Given how soon this arose, and after only around 2,500 miles had been driven, this fault was likely an issue present or developing at the point of supply and made the car not of satisfactory quality as result.

After the car was returned in December 2023, Mr S says he continued to have issues with the range he could achieve from a full charge.

The notes he's provided of journeys completed and the level of charge used for those journeys could indicate an issue – especially those where the car is only getting about 60% of the intended range.

More recently, with the mileage being 7,522, Mr S has provided evidence of a 0.4 mile journey being completed, between 18:28 and 18:32, but 8 miles had come from the battery range.

The next day, a 1.2 mile journey had been completed between 08:02 and 08:13, but 13 miles had dropped from the battery range. The battery range also seems to have dropped from 116 to 108 miles between these journeys, despite the odometer indicating that no mileage had been covered between the journeys.

As Black Horse pointed out, there are a number of issues that could impact the range obtained, so journeys where 80-90% of the range has been obtained aren't necessarily indicative of a problem.

However, since the case has been with our service Mr S has obtained an onboard diagnostic device and the results from its tests indicate the battery's 'state of health' is at 81.27%. This is in circumstances where it was replaced in December 2023. This diagnostic shows power steering and ABS fault codes, though there's a strong possibility these are historic.

These results were shared with Black Horse and it felt there wasn't enough to say the results were from Mr S's car. It also felt the lack of a summary of the findings, as would be the case with a professional diagnostic, meant it wouldn't consider this further. Additionally, it maintained that a further inspection should be arranged.

When Mr S first made Black Horse aware that the faults hadn't been fully resolved, it didn't offer Mr S assistance in obtaining a further inspection. Since the case has been with our service Black Horse has more recently offered to help arrange a diagnostic, with the parts

replaced still being under warranty. However at the same time Mr S has provided evidence to indicate on balance that the battery's health is depleted beyond what would be expected so soon after it has been replaced. Mr S explained that he obtained a diagnostic device and the results of that diagnostic show the battery's health having depleted. I haven't seen anything to make me doubt the origin of these results.

As such, I'm persuaded on balance that a fault remains making the car not of satisfactory quality.

Putting things right

The earlier attempt at repair means Mr S is now entitled to reject the car.

I agree with the investigator that Mr S should be refunded 25% of his monthly payments, apart from two qualifications. Black Horse can keep 100% of the payments while Mr S was provided a courtesy car during the repair – September to December 2023. And he should be compensated 100% of his payments from December 2023 to January 2024 while he didn't have the car or a courtesy car.

I don't think the charging costs should be refunded as I don't think there's persuasive evidence to establish these were the unavoidable consequence of what's been complained of. It's quite possible these running costs could have been incurred in any event. I also consider the 25% refund of payments is relatively significant for the issue in question and I don't think it's fair for me to make an award over and above this for the financial impact of all of this. Black Horse should pay an additional £250 on top of the £100 it already offered to reflect the distress and inconvenience caused.

It should now:

- End the agreement with nothing further for Mr S to pay
- Collect the car at no cost to Mr S
- Refund his payments in line with what's outlined above (minus anything already paid to reflect impaired use during these periods)
- Pay 8% simple interest on the above refunds from the date of any payments to the date of settlement*
- Pay £250, on top of the £100 already offered, for the distress and inconvenience caused**
- Remove any adverse information that may have been reported to credit reference agencies in relation to the agreement

* If Black Horse considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr S how much it's taken off. It should also give Mr S a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

** If Black Horse does not pay this compensation for distress and inconvenience within 28 days of the date on which we tell it Mr S accepts my final decision then it must also pay 8% simple yearly interest on this from the date of my final decision to the date of payment.

My final decision

My final decision is that I uphold Mr S's complaint against Black Horse Limited.

It must now settle the complaint in the way I've outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 11 April 2025.

Scott Walker
Ombudsman