

## The complaint

Mr L is unhappy with a car supplied under a hire purchase agreement taken with Black Horse Limited.

## What happened

Around May 2023 Mr L entered into a hire purchase agreement with Black Horse to acquire a used car. The mileage was recorded on the agreement as 99,261 and the car was around five years old. The cash price of the car was £13,298 and Mr L paid a deposit of £1,000.

Black Horse also financed £2,145 worth of additional products and insurance under the agreement. Mr L was due to make 60 repayments of £296.72.

Mr L says he paid upfront for the car's tax in the dealer, but later found out the car wasn't taxed. And he says the logbook for the car arrived late. Mr L told us this meant he didn't initially drive the car.

Mr L emailed the dealer in July 2023 and explained the car wasn't taxed and had issues. Mr L said the car juddered and shook when accelerating and under motorway speeds.

Mr L says he took the car to a manufacturer's garage for a diagnostic, for which he paid £129.60. This noted:

*"Unable to hear noise when pressing gas pedal or when accelerating. However able to hear engine hunting/rough idling when stationary. Advise replacing tank vent valve"*

*"Carried out test schedule on gearbox/rear axle. Advise software update and adaptation reset"*

Mr L says the car was returned to the dealer in August 2023, who after two days said it couldn't fix the car and it would have to be returned to the manufacturer's garage. Mr L did this and paid £556.79 for the repairs. Mr L says he expected the dealer to reimburse him for this, but it never did. Mr L says the issues continued despite the repairs.

Mr L then complained to Black Horse.

In September 2023 Black Horse issued a final response to the complaint. It said, in summary, that it thought the issues Mr L had raised were 'advisories' and were not considered faults that were present at the point of supply. But, it said it would give Mr L £150 as he had *"not had a great experience within the first few months"*.

In November 2023, Mr L says he returned the car to the dealer again, who had it until the middle of December 2023. Mr L says he was then told it was repaired, but on the drive home said it became stuck in one gear and displayed alerts on the dashboard. He emailed the dealer and Black Horse and explained this to them.

Mr L says the car was again returned to the dealer and he was given a courtesy car. He says he was unhappy with this car as it was not the same standard as his and had the

dealer's branding on.

In January 2024, the dealer explained the car had been booked in with a specialist to repair.

Around this time, Mr L emailed the dealer and Black Horse and said he wanted to reject the car. Mr L then referred the complaint to our service.

Black Horse responded to our service and said it thought Mr L was responsible for taxing the car, so it said it was not responsible for this issue. But, it said it had reviewed the decision and changed its outcome. It made an offer to settle the complaint. It said it would:

- Collect the car without cost to Mr L
- Close the account with nothing further to pay
- Refund Mr L the deposit of £1,000
- Reimburse Mr L £129.60 for the diagnostic
- Reimburse Mr L £556.79 for repairs
- Add 8% simple interest to the above
- Pay Mr L £300 to reflect the distress and inconvenience caused

Black Horse said it thought Mr L had covered around 9,822 miles during seven months he had use of the car, so it said it would retain all of the repayments made under the agreement.

Our investigator issued an opinion and explained, in summary, that she thought the offer Black Horse had made was fair and reasonable under the circumstances.

Mr L was unhappy with this. In summary, he mentioned various expenses he had to pay out such as the installation of a dash cam, mats, map updates and he said he paid tax and insurance on the car. Mr L also pointed out that he'd been driving a courtesy car for several months, not the car he was paying for. He said he should be paid back around £2,700.

Our investigator said she didn't think it was fair to reimburse Mr L anything for the time he was in a courtesy car. But she sent over some of the costs Mr L provided to Black Horse to see if it would consider covering them.

Black Horse said it wouldn't pay any additional costs, as it was not upholding the complaint.

Our investigator then explained she didn't think it was reasonable to reimburse Mr L the cost of the other items as these were something he chose to buy.

Mr L remained unhappy with this. He explained that around March 2024 the dealer was supposed to collect the courtesy car but hadn't. He said he was no longer using the courtesy car.

Black Horse then responded again and said it had made a mistake in its last response and asked us to disregard it. But, it said it still wouldn't reimburse costs for the dash cam or mats as these could be removed and used in other cars.

Mr L remained unhappy, so the case was passed to me to decide. I sent Black Horse and Mr L a provisional decision on 19 July 2024. My findings from that decision were as follows:

*Firstly, I'd like to explain to both parties that I may not comment on every point raised nor every piece of evidence. I'll instead focus on what I think are the key facts and what I consider to be the crux of Mr L's complaint. This reflects the informal nature of our service.*

*Mr L complains about a car supplied under a hire purchase agreement. Entering into regulated consumer credit contracts such as this as a lender is a regulated activity. So, I'm satisfied I can consider Mr L's complaint about Black Horse.*

*When considering what's fair and reasonable, I take into account relevant law, guidance and regulations. The Consumer Rights Act 2015 ('CRA') is relevant to this complaint. This says, in summary, that under a contract to supply goods, the supplier – Black Horse here – needed to make sure the goods were of 'satisfactory quality'. Satisfactory quality is what a reasonable person would expect, taking into account any relevant factors.*

*Black Horse responded to our service and explained it was now upholding the complaint and said it agreed to reject the car. So, I'm satisfied that both parties are in agreement that the car wasn't of satisfactory quality and I don't need to make any findings here. Instead, my decision will focus on whether I think the offer Black Horse made is fair and reasonable under these circumstances.*

*I've firstly considered the offer to reject the car. Given a repair had been attempted and failed, I'm satisfied Mr L had the final right to reject under the CRA at the time Black Horse made the offer. This, in broad terms, meets Mr L's rights. So, I've considered if Black Horse need to do anything in addition to this.*

*Black Horse explained because of the mileage Mr L covered in the car that it thought it was reasonable to retain all the repayments made. I agreed Mr L appears to have had use of the car, despite its issues, for most of the time he had it. But, I also think the car wasn't performing as it should.*

*I say this as, firstly, Black Horse have accepted the car was of unsatisfactory quality for the reasons Mr L explained. The initial diagnostic confirmed it was idling roughly and I'm satisfied it also confirmed an issue with the gearbox as it recommended a software update.*

*Mr L has been consistent with what he says was wrong with the car. And given the dealer took it back and attempted repairs, I'm satisfied it's likely they also noted issues.*

*Given all of this, while I agree Black Horse should retain the large majority of the payments for the car, I think it should reimburse Mr L 10% of these to reflect the impaired usage he had.*

*Mr L also spent a significant amount of time in a courtesy car. I understand he wasn't happy with this as it was a different make and model and had branding for the dealer on it. And I know he wants to be reimbursed for his payments during this period.*

*I've considered this carefully. I think the main point here is that Mr L was kept mobile – and I don't think it's fair and reasonable that he shouldn't pay anything for this. But I've thought about the specific courtesy car itself. This was a smaller model than Mr L's, from what many would consider a less premium brand. But on the other hand, from the registration number I've seen, it also appears this car was significantly newer than Mr L's.*

*Thinking about all of this, I also think it's fair that Mr L also be reimbursed 10% of the repayments towards the agreement for the time he was in a courtesy car to reflect the difference.*

*Mr L said he stopped using the courtesy car in March 2024, as he bought a second car. And I've seen an email dated 19 March 2024 when Mr L tells the dealer it can collect it. So, I think Black Horse should reimburse any payments made towards the agreement from this point.*

*I've then considered the items Mr L says he bought for the car. Some of these I haven't seen invoices or evidence of. But, I have seen that Mr L paid £111.92 on 1 June 2023 for mats, and a total of £499 for a dash cam to be fitted. This was paid in four instalments of £124.75 from 2 June 2023, 30 June 2023, 31 July 2023 and 30 August 2023.*

*Thinking about this, I don't agree with Black Horse's opinion that these could simply be taken out and used again. I say this as I think it's likely the mats were tailored to this particular make and model, and wouldn't likely fit other cars Mr L may acquire. And I don't think it's likely the dash cams can simply be removed, as Mr L paid £222.38 in labour to fit them, and the invoice contains a 'lock' and 'fuse'.*

*Considering this, I'm satisfied Mr L hasn't had the use of these products he expected. And so I think it's fair Black Horse reimburse him for these.*

*I've considered that Mr L had to pay insurance and tax for the car. But, he was insuring a risk here even when he didn't have the car – so he still had a benefit from this policy. Taxing the car was a requirement, and presumably he didn't incur this cost for the courtesy car. So, I don't think Black Horse needs to reimburse him here.*

*I've thought about what Mr L initially said about the car's tax, where the dealer agreed to pay this as part of setting up the contract. There's limited information here, so I'm not sure exactly what happened or what was agreed. I can see a payment was made around the time Mr L acquired the car for the amount he says, but I can't see what this was for.*

*I'm also not convinced by Mr L's version of events that this situation prevented him initially using the car. I say this as at the beginning of August 2023, roughly three months after he got it, the car's mileage was over 2,000 miles higher than when Mr L acquired it. Ultimately, I think it was Mr L's responsibility to tax the car, and given it seems to have had a minimal impact, I don't think Black Horse needs to take any further action on this point.*

*Finally, I agree with Black Horse that Mr L will have suffered distress and inconvenience because of what happened. I think having to keep returning the car to the dealer along with the stress of realising the car wasn't repaired would've been upsetting for him. I think the offer Black Horse made of £300 to reflect this is fair and reasonable.*

I gave both parties two weeks to come back with any further comments or evidence.

Black Horse got in touch and said it would accept the provisional decision.

Mr L got in touch and said he was happy with the contents of the decision. But he pointed out that Black Horse had taken a payment in April 2024 and asked that his credit file is not adversely impacted by the situation.

### **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 thought about everything again, I still think this complaint should be upheld. This is for the same reasons I explained in my provisional decision and set out above.

I've thought about Mr L's comments in response to the decision. But I'm satisfied the redress I recommended in my provisional decision and what's set out below covers both of these concerns.

### **My final decision**

My final decision is that I uphold this complaint. I instruct Black Horse Limited to put things right by doing the following

- Collect the car at no cost to Mr L
- Cancel the agreement with nothing further to pay
- Refund Mr L's deposit of £1,000\*
- Reimburse Mr L 10% of all repayments made until 19 March 2024\*
- Reimburse Mr L all repayments made post 19 March 2024\* \*\*
- Reimburse Mr L £129.60 from 1 August 2023 for the diagnostic\*
- Reimburse Mr L £556.79 from 10 August 2023 for the repair\*
- Reimburse Mr L four payments of £124.75 from 2 June 2023, 30 June 2023, 31 July 2023 and 30 August 2023 for the dash cam\*
- Reimburse Mr L £111.92 on 1 June 2023 for mats\*
- Pay Mr L £300 to reflect the distress and inconvenience \*\*\*
- Remove any adverse information from Mr L's credit file in relation to this agreement.

\* Black Horse should pay 8% simple interest on these amounts from the time of payment to the time of reimbursement. If Black Horse considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr L how much it's taken off. It should also give Mr L a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

\*\*I believe Mr L stopped paying towards the agreement at some point during this period – if so Black Horse should remove the amounts due from any arrears

\*\*\* If Black Horse has already paid any amount to Mr L in relation to this point it can reduce this payment accordingly

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 3 September 2024.

John Bower  
**Ombudsman**