

## **The complaint**

Mr A complains about the quality of a car supplied to him by Black Horse Limited ("Black Horse").

## **What happened**

Mr A acquired a car under a 60 month hire purchase agreement with Black Horse in September 2023. The car cost around £18,100 and alongside the car, Mr A purchased a dealer guarantee and a further extra totalling £1,095. The finance agreement shows that Mr A made a deposit payment of £6,702.

Under the agreement, Mr A was required to make 59 payments of £290.49, followed by a final payment of £290.49 (which included the option to purchase fee) if he wanted to keep the car. The car was supplied by a dealership I'll refer to as "D". At the time the car was acquired by Mr A, it was around three years old and the mileage was recorded as 45,803.

In December 2023, Mr A says the car broke down suddenly. He said he attempted to contact D by phone and email but this was unsuccessful. So he called a breakdown company and paid £138.99 to have the car's battery replaced. Mr A says D declined to assist him and so, he made a complaint to Black Horse in March 2024.

Black Horse issued its response to Mr A's complaint in May 2024. It said that given the battery had gone flat within the first six months of Mr A owning the car, it accepted liability for the issue. It offered to refund the cost of the battery plus applicable interest and pay Mr A £80 for the distress and inconvenience caused.

Unhappy with this, Mr A referred a complaint to this service. He said the failure of the car resulted in significant inconvenience, financial strain, physical and mental suffering and distress to him. Mr A said D had refused to provide timely assistance and this was a violation of consumer rights. He said Black Horse's offer didn't adequately address the impact of the fault to him and it was insufficient. Mr A said at the time of the breakdown, he had his young child in the car. He also mentioned that there were issues with the key-battery which took place within a week of him being supplied the car.

To put things right, Mr A said he wanted a refund of the car, compensation of £50,000, for Black Horse to review and amend its policy to prevent a reoccurrence of these actions and to have Black Horse's business blacklisted in the UK to protect consumer rights and to prevent fraudulent practices.

Our investigator looked into the complaint and said there was insufficient information to suggest the car was faulty at the time it was supplied to Mr A. Our investigator said despite this, Black Horse had offered to pay for the cost of the battery replacement in addition to £80 compensation. She also said that the issue was repaired within an hour.

Mr A disagreed. He said the car breaking down so soon after it had been supplied to him was a clear indication that it wasn't of satisfactory quality when it was supplied. He also said that Black Horse hadn't provided any information to suggest the fault wasn't present at the time it was supplied to him. Mr A said that his inability to claim on the warranty was due to the warranty providers phone lines not being open all day, every day and so, he had to seek immediate repairs. He said the offer made by Black Horse was insufficient considering the

distress, inconvenience, potential danger, the significant impact to his wellbeing, particularly when it involved the wellbeing of a vulnerable family member.

As Mr A remains in disagreement, the complaint 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.

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.

I've read and considered the whole file and acknowledge that Mr A has raised a number of different complaint points. I've concentrated on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it – but because I don't think I need to comment on it in order to reach what I think is the right outcome. The rules of this service allow me to do this.

What I need to decide in this case is whether the car supplied to Mr A 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. Black Horse 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 conditional sale agreements. Under a hire purchase agreement, there are implied conditions that the goods supplied will be of satisfactory quality.

Mr A 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, Mr A reported that the car cut out in December 2023. This was around three months after it was supplied to him, during which he had been able to cover around 746 miles in the car.

Mr A has provided a copy of a report from the breakdown company, who I'll refer to as P. P in its report confirmed that it carried out a full starting and charging test. The result of this was that there was a bad cell and a new battery was fitted with a five year warranty. The battery testing rating was 203EN but for the engine to turn over, the battery needed to have a rating of 306EN. It also said, *"Battery test results may vary and your battery test results are valid at the time of the roadside test. Many other factors can influence the decision such as temperature, voltage and battery condition."*

In light of all this, I'm satisfied that the car had a fault. I now need to consider whether this fault makes the car of unsatisfactory quality.

Mr A has also provided a job sheet to show he made a payment in October 2024 of £45 for a manufacturer battery health check. The job sheet doesn't confirm any issues with the battery or why this was carried out. Mr A has also provided a receipt of £7.50 for a battery from September 2024. He says this was to replace the battery in the key fob. However, both these things would be considered as ongoing maintenance costs as the car was a used car.

In relation to the fault that occurred which resulted in the car breaking down, I'm not satisfied the car was of unsatisfactory quality when it was supplied to Mr A. I say this because a car

battery is a serviceable item that will need to be replaced over time. A battery failing can be impacted by a number of things and in this case, the breakdown report didn't confirm why the battery failed. The car was a used car which had completed 45,803 miles at the time it was supplied to Mr A. A further 746 miles were completed by Mr A before the car broke down due to the failure of the battery and three months had passed. As a result of this, I'm not persuaded that the car was of unsatisfactory quality at the time it was supplied to Mr A.

Mr A says that it is down to Black Horse to show that the car wasn't faulty as the issue happened after he had the car for three months. I agree. However, Mr A had the car repaired the same day the fault occurred, so Black Horse wasn't afforded the opportunity to inspect the car and show why the fault occurred. The fault doesn't appear to have reoccurred as public records show the mileage in late September 2024 was recorded as 49,056. So if Black Horse was now provided with an opportunity to have the car inspected, it's unlikely that any faults relating to the battery would be found that make the car of unsatisfactory quality.

Whilst I'm not persuaded that the car supplied to Mr A was of unsatisfactory quality, Black Horse has accepted liability for the fault. So, for completeness, I'll go on to consider whether it has done enough to put things right.

Mr A says he wants to reject the car. But because the fault occurred after three months of Mr A being supplied the car, even if it were the case that the car was of unsatisfactory quality, Black Horse would have been entitled to one chance to repair the car. Mr A contacted P who was able to successfully repair the fault. Black Horse has offered to pay Mr A for the cost of the replacement battery, with applicable interest. I think this is fair and reasonable in the circumstances.

I've also considered the impact of the breakdown on Mr A.

I accept that Mr A was caused some distress and inconvenience as a result of the car breaking down. This is to be reasonably expected when a car suddenly and unexpectedly breaks down. I've seen a copy of the breakdown report which confirms that the repair was carried out by P within an hour. However, I appreciate it may have taken P some time to reach Mr A in order to carry out the repair.

Mr A also says he was refused timely assistance by D, but there is no supporting information to support this. The email chain Mr A has provided shows he contacted D in the evening of the day of the breakdown. D told him it would respond within five days. It did this and so, I consider that whilst it didn't provide an instant response, it responded in a timely manner.

I also can only consider the distress and inconvenience caused to Mr A only as he is the customer of Black Horse. I can't consider any distress and inconvenience caused to any other parties.

It also isn't the role of this service to punish or fine businesses. That is the role of the regulator – the Financial Conduct Authority. So I'm unable to recommend that Black Horse is blacklisted or that it should amend any of its policies.

Having carefully considered all this, I think the £80 offer made by Black Horse for the distress and inconvenience caused is fair and reasonable in the circumstances. I'm satisfied the repair was carried out within a reasonable time on the same day the issue occurred and that the issue hasn't reoccurred. It follows that I'm not asking Black Horse to take any further action.

### **My final decision**

My final decision is that I uphold Mr A's complaint. Black Horse Limited should do the following, if it hasn't already done so, to put things right,:

- Pay Mr A £138.99 for the replacement battery:

- pay 8% simple yearly interest on this amount\*; and
- pay Mr A £80 for the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 6 November 2024.

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

Sonia Ahmed  
**Ombudsman**