

## The complaint

Mr B complains that the car he acquired through Black Horse Limited ("BHL") wasn't of satisfactory quality. He wants BHL to fairly and reasonably settle his complaint and cover the costs of repair that he's incurred.

## What happened

Mr B entered into a hire purchase agreement in December 2023 to acquire a used car. The cash price of the car was £9,999, and the total repayable was £11,650.52, and was to be repaid through the credit agreement which was set up over a 48-month term with monthly payments of £162.49. At the time of acquisition, the car had already been driven more than 38,000 miles and was around three years old.

Mr B told us:

- In March 2024, less than three months after acquiring it, the car's steering became unstable before the car came to a halt in the middle of the road;
- a mechanical fault had occurred resulting in damage to the internals of the car and its suspension, and the collapse of the bumper on to a wheel, forcing it out of position;
- the fault was very sudden, and had it happened minutes earlier on a busy motorway, it could've been fatal;
- the car was recovered at a cost of £320;
- he contacted the supplying dealership and the provider of his warranty, and was instructed to get a report from his garage and a quote for repairs;
- his garage said it could not ascertain whether there was damage to the gearbox without taking things apart, but it said the car had experienced a mechanical fault;
- the warranty provider requested an independent inspection, and this took place in late March. The provider agreed to cover the costs of the mechanical repairs, but declined to pay for repairs to the car's bodywork - this was an exclusion on the policy;
- the bodywork repairs are consequential and should've been covered by the policy;
- he complained to BHL, but it rejected his complaint;
- he wants the cost of body work repairs reimbursing, and he also wants to be reimbursed the cost of recovery; the storage charges he's paying whilst the car is awaiting repair; and the insurance and road tax he's paid even though he's not been able to drive the car. If this isn't possible, he wants to reject the car and cancel the finance agreement.

BHL rejected Mr B's complaint about the quality of the car it had supplied. It said it hadn't seen any evidence that the problems with the car were present or developing at the point of supply. It explained that an independent inspection had concluded that the issues Mr B had experienced were entirely post-sale. And it said that as the engineer concluded it to be an insurable event, rather than a warranty event, it could not assist further.

BHL told this Service that the car had an MOT on the day of sale, and that would have identified any concerns with the suspension at this time. It said it had also looked at online

forums but had not noticed a theme relating to premature failure of the wishbone. And it said there were no manufacturer recalls for this.

Our investigator looked at this complaint and said he didn't think a complaint about the quality of the supplied car should be upheld. He said there was no dispute that there was a fault with the car but – based on the independent inspectors' reports – he thought it was more likely that the issues Mr B experienced were not present or developing at the point of supply. He acknowledged that both reports produced different conclusions, but neither said that BHL was liable for the repairs, and neither concluded that the car was not of satisfactory at the point of supply.

Mr B disagrees so the complaint comes 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 agree with our investigator – and I'll explain why.

I hope that Mr B won't take it as a discourtesy that I've condensed his complaint in the way that I have. Ours is an *informal* dispute resolution service, and I've concentrated on what I consider to be the crux of this complaint. Our rules allow me to do that. Mr B should note, however, that although I may not address each individual point that he's raised, I have given careful consideration to all of his submissions before arriving at my decision.

When looking at this complaint I need to have regard to the relevant laws and regulations, but I am not bound by them when I consider what is fair and reasonable.

As the hire purchase agreement entered into by Mr B is a regulated consumer credit agreement this Service is able to consider complaints relating to it. BHL is also the supplier of the goods under this type of agreement, and it is responsible for a complaint about their quality.

Under the Consumer Rights Act 2015 ("CRA") there is an implied term that when goods are supplied "the quality of the goods is satisfactory". The relevant law says that the quality of the goods is satisfactory if they meet the standard that a reasonable person would consider satisfactory taking into account any description of the goods, price and all other relevant circumstances.

The relevant law also says that the quality of the goods includes their general state and condition, and other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability can be aspects of the quality of the goods. So, what I need to consider in this case is whether the car *supplied* to Mr B was of satisfactory quality or not.

The CRA also says that, where a fault is identified within the first six months, it's assumed the fault was present when the car was supplied, unless BHL can show otherwise. But, if the fault is identified after the first six months, then it's for Mr B to show the fault was present when he first acquired the car. So, if I thought the car was faulty when Mr B took possession of it, and this made the car not of a satisfactory quality, it'd be fair and reasonable to ask BHL to put this right.

I don't think there's any dispute that Mr B has experienced problems with the car. That has been well evidenced by both his testimony and the information he's sent us. But whilst I

accept that there has clearly been a fault with the wishbone and the suspension resulting in the collapse of the bumper and damage to the front wheel, BHL would only be responsible for putting things right if I'm satisfied that this issue was present or developing when the car was supplied – that is to say, the car wasn't of satisfactory quality when Mr B first acquired it.

Three entities have provided comments on the car, and what happened. I'm going to focus on what the two independent experts have said. I don't mean any disrespect towards the garage that Mr B contacted, but it's neither independent, nor in a position to give an opinion on the existence of the fault relative to the point of supply.

The third parties instructed by the warranty provider and by BHL to carry out an independent inspection of Mr B's car are both recognised and trusted experts in this arena. And it's clear that both were provided with an accurate background that clearly set out the issues.

The first report said “...*The nearside front bumper displayed damage correspondent to the vehicle collapsing at the nearside front. The nearside front bottom wishbone arm had a clean break in the centre of the arm, causing consequential damage to the suspension components and driveshafts in the area of nearside front.*”

And the second report stated “*The left front suspension lower arm had failed at its weakest point...During the failure of the lower arm this allowed the road wheel to be insecure pulling the driveshaft from its location in the transmission. It is not known if the differential in the transmission has sustained any damage...The anti-roll bar link had also been torn apart. As the vehicles height dropped the bodywork comprising of the left front wing and the tyre caused damage with the vehicle inertia until it came to a halt. From the evidence of damage to the left components the vehicle came to a halt very quickly.*”

So, I'm satisfied that the fault and problems that Mr B complained of are present and as he described.

But the simple existence of the fault in itself isn't enough to hold BHL responsible for repairing the car or accepting its rejection. The legislation says that this will only be the case if the fault was present or developing at the point of supply; the car supplied was not of satisfactory quality.

The first independent engineer concluded that, based on what it had seen, the wishbone arm had snapped as a result of *material fatigue*, and was not a manufacturing fault. Specifically it said “*Material fatigue is a result of material weakening in a vulnerable area, often leading to localised material failure/ cracking or complete breakage in this case. A fault of this nature is progressive and would have developed over a period of time; however, the fault would only have been evident at the point of final failure... Based on the evidence available at the time of our inspection we do not consider the fault to have been present at the point of policy inception*”.

The second independent engineer concluded its report by stating “*The failure was not due to any wear or component fatigue simply due to its design... The suspension would not have been in state of failure or fatigue at the point of sale*”.

So, even allowing for the differences in the detail of the two independent reports, they both conclude that fault was *not* present or developing at the point of supply. So, because of this, I can't say that the car was of unsatisfactory quality when it was supplied, and I can't hold BHL liable for the fault or for the repairs that Mr B has had to pay for.

Taking into account all the evidence, I can't uphold this complaint. I know Mr B will be

disappointed with this decision, but I hope he understands why I've reached the conclusions that I have.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 1 May 2025.

Andrew Macnamara  
**Ombudsman**