

The complaint

Mrs W complains that Black Horse Limited supplied her with a faulty car. Mrs W would like to reject the car.

What happened

Mrs W entered into a hire purchase agreement with Black Horse for a used car in April 2023. The car was under two years old and had a mileage of 14,045 at the point of sale. The cash price of the car was £22,622 and Mrs W made an advance payment of £250. The agreement was designed with a 48-month term and Mrs W was required to make 47 monthly payments of £389.94 and a final payment of £10,374 if she wanted to keep the car. The total amount payable under the agreement was £28,951.18.

Mrs W says she contacted the third-party dealer within days of taking delivery of the car about a squealing sound from the brakes. Mrs W took the car into get checked in June 2023 and the job sheet confirmed the squealing sound and the brakes were deglazed. Mrs W says the sound returned shortly after and she took it back to the garage in September 2023. The job sheet for this visit says the garage couldn't confirm Mrs W's concerns but offered to replace her brakes and discs with genuine manufacturer parts. The brakes and discs were replaced during a subsequent visit in September 2023. Mrs W says that didn't resolve the issue, so she complained to Black Horse.

Black Horse didn't uphold her complaint but offered to pay for a diagnostic test from a manufacturer garage. It also said if it is detected that the fault was its responsibility then it will pay for this. Mrs W said she'd already taken several days off work unpaid and couldn't afford to be without the car for the duration of time it will be with the garage. While the complaint was referred to the Financial Ombudsman Service, Mrs W traded in the car for another one.

One of our investigators looked at the complaint and concluded there was likely an issue with the car, but he thought Black Horse had made a reasonable offer to pay for the investigation of the issue and any associated costs should it have been found responsible for it. However, as Mrs W no longer had the car, it wasn't possible for the diagnostic test to be completed and so on balance he couldn't conclude that the car was of unsatisfactory quality.

Our investigator didn't recommend that the complaint should be upheld. Mrs W asked for an ombudsman to decide her complaint.

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.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Mrs W was supplied with a car under a regulated consumer credit agreement which means we're able to look into complaints about it.

The crux of Mrs W's complaint is that the car was faulty as the brakes were squealing loudly. So, what I need to decide here is whether the car supplied to Mrs W was of satisfactory quality. If I don't think it was, I'll need to think about what's fair, if anything, to put things right. The Consumer Rights Act 2015 ("CRA") covers the agreement in this case and under this agreement, there are implied conditions that the goods supplied will be of satisfactory quality.

Mrs W acquired a car that was used – so there would be different expectations compared to a new car, for example parts may need to be repaired or replaced sooner. Having said that, the car's condition at the point of supply, should have met the standard a reasonable person would consider satisfactory, considering 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.

Mrs W has been consistent with her complaint about the brakes. She has provided some video footage, and the squealing/squeaking sound is audible from the footage. Mrs W also took the car to a third-party garage for diagnostics and it found fault codes, eight of which relate to the brakes. The diagnostic report states:

*"Removed brake pads they was [sic] full of brake dust
Discs was [sic] full of brake dust
Brakes that are fitted look like aftermarket quality not recommended When scanned 23 errors came back 8 in regards [sic] to the brakes..."*

Also, the job sheet from June 2023 from the car dealer says, *"confirmed brakes squealing"*.

Based on the information available, I'm persuaded the car was making a squeaking/squealing noise.

Mrs W has said she was surprised to find out that the brakes on the car weren't the original manufacturer ones. While I can understand Mrs W's concerns here, that on its own doesn't make the car of unsatisfactory. The CRA doesn't require Black Horse to supply a used car with manufacturer's parts specifically for it to meet the requirements of the Act. Also, while I can understand that the squealing sound would have been inconvenient for Mrs W, she was still able to drive the car. I can see that the car travelled more than 11,000 miles from the time it was supplied to when she traded it in. This suggests Mrs W was able to use the car to a reasonable extent despite the noise.

The issue here is that although the diagnostic report shows fault codes, it has been unable to identify the cause of the fault. The fault codes generated relate to parking motors, hydraulic assistance, tire pressure, brake booster control unit and the button lamp for electrical parking brakes. All fault codes generated are recorded as 'passive/sporadic' which suggests the faults are either historic or intermittent. It doesn't appear that any of these codes directly relate to the noise from the car. Essentially, for me to conclude that the car was of unsatisfactory quality, I need to be satisfied that there was a fault that was present or developing at the point of sale, or the car was not durable.

As stated above, the car was a used car and, in those circumstances, parts may likely need to be repaired or replaced sooner than a brand-new car. The car was reported as having non-manufacturer brake pads, which suggests the pads had already been changed by the time Mrs W acquired the car. I appreciate Mrs W contacted the third-party dealer within three months of taking delivery of the car but in the absence of evidence to show the cause of the fault, I can't safely conclude that the car was of unsatisfactory quality. Furthermore, it is not uncommon for brakes to make some noise on occasions and from the evidence presented in the case, I'm not persuaded the noise of the brakes was sufficient to render the car of unsatisfactory quality. Similarly, it is unclear how frequent the noise occurred on the brakes and whether this was a persistent or occasional noise that came and went. As noted above, the car had travelled 11,000 miles while in Mrs W's possession which suggests the noise was not significant and or consistent. If the noise was that bad and/or frequent, I consider unlikely Mrs W would have travelled the distance she did.

In this case, Black Horse offered to pay for diagnostics to be carried out at a manufacturer approved garage to find out the cause of the issue. Black Horse has told this service had the issue with the car been identified as its fault, then it would have borne the costs of that. However, Mrs W didn't feel she could accept that offer as she would be left without the car and so she traded the car in for another one. This has meant it hasn't been possible to establish the cause of the fault and so I can't conclude that the car was of unsatisfactory quality.

Even if I was somehow persuaded that the car was unsatisfactory quality with the limited information available, which for the avoidance of doubt I'm not, I won't be able to fairly ask Black Horse to refund the around £4,000 deficit Mrs W says she incurred when she traded the car in. I say this because I think the fair way to have put this right in the particular circumstances of this case, once the cause of the fault had been established as an issue present and developing at sale will be to ask Black Horse to bear the cost of repairing it. That is something Black Horse offered to do and was not unreasonable in my view, considering the broader circumstances of the case.

Overall, there isn't enough information to show that the car was sufficiently of unsatisfactory quality and so I won't be asking Black Horse to take any actions to put things right.

My final decision

For the reasons given above, I do not uphold this complaint or make any award against Black Horse Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 23 July 2025.

Oyetola Oduola
Ombudsman