

The complaint

Mr G complains about the quality of a car he has been financing through an agreement with Black Horse Limited (Black Horse).

What happened

Mr G took receipt of a used car in December 2022. He financed the deal through a hire purchase agreement with Black Horse.

In April 2023 he says he started to notice a burning smell. A local garage inspected the car on several occasions between July 2023 and March 2024. They noted that despite constant topping up and no external signs of an oil leak, the oil levels remained low. They suggested that the engine would need stripping to identify the cause of the issue.

In April 2024 Mr G complained to Black Horse about the quality of the car they had supplied. They didn't uphold his complaint about the oil issue.

Mr G referred his complaint to this service and while our investigator considered it, he had the engine stripped. It was identified that there was a split rocker cover gasket and the garage confirmed that the engine required replacing. Our investigator considered that evidence but noted that Mr G had been able to drive a considerable distance before that fault was diagnosed; she wasn't persuaded it was likely that issue was present when the car was supplied to Mr G, when Black Horse were responsible for the car's quality. She also noted that the car had been supplied without a full-service history and she wasn't persuaded to uphold Mr G's complaint.

Mr G was unhappy with that response, so his complaint has been referred to me, an ombudsman, to make 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 know it will disappoint Mr G, but I'm not upholding this complaint. I'll explain why.

Where the information I've got is incomplete, unclear, or contradictory, as some of it is here, I have to base my decision on the balance of probabilities.

I've read and considered the whole file, but I'll concentrate my comments 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.

Mr G acquired his car under a hire purchase agreement. This is a regulated consumer credit agreement and as a result our service is able to look into complaints about it.

The Consumer Rights Act (2015) is the relevant legislation. It says that the car should have been of satisfactory quality when supplied. If it wasn't then Black Horse, who are also the supplier of the car, are responsible. The relevant law also says the quality of goods is satisfactory if they meet the standard that a reasonable person would consider satisfactory taking into account any description of the goods, the price and all the other relevant circumstances.

In a case like this which involves a car the other relevant circumstances would include things like the age and mileage at the time the car was supplied to Mr G and its service history. The car here was about six years old and had already completed about 45,000 miles. There was an inconsistent and delayed service history. Services were required every year or 10,000 miles (whichever came soonest). Those completed in the first two years were late and there was no service completed for two years between November 2018 and November 2020.

What is the source of the oil loss issue?

When Mr G had the car looked at in 2023 the garage couldn't find the source of the oil problem. They suggested the car engine would need stripping to identify the source. On balance, I think the source was likely to have been the rocker cover gasket failure. That was subsequently identified when the engine was stripped in, or around, November 2024. I think that's likely to have been the case because:

- A rocker cover gasket failure would appear a reasonable explanation for oil loss.
- A rocker cover gasket failure is currently the only possible cause that's been identified of the unresolved oil loss issue Mr G has been experiencing since about April 2023.
- Mr G has explained he's always had to top up the oil and that seems consistent with an underlying gasket problem.
- Mr G has explained he's kept topping the oil up. While he's been able to cover an appreciable mileage in the car, the top ups seem a reasonable explanation as to why he's been able to cover that mileage is less likely to have been starved of oil.

I'm persuaded it is, therefore, most likely that the oil loss issue Mr G has been experiencing was caused by a damaged rocker cover gasket.

Should Black Horse be liable for the repair or rejection of the car?

This car was supplied with an inconsistent and delayed service history. In the first year the service was delayed but only by a couple of thousand miles. In the second year the delay was considerable and 7,000 miles late, and in the third year there was no service done at all. Research I've completed suggests that delays in early services are especially important as new engines produce more wear metals and contaminant early on. The delayed oil changes would allow engine oil to break down and become acidic. That oil coats the gaskets and would be likely to accelerate their degradation.

So, as Mr G accepted a car without a full-service history it was to be expected that failure of this type would be likely to occur prematurely. I don't, therefore, think it would be fair to suggest Black Horse were responsible for repairing the fault with the car and replacing the engine. It seems to me that a fault of this kind could be considered normal wear and tear on a vehicle that had been inadequately serviced in the way this car had.

Mr G has also continued to drive the car when there has been an oil leak. While it wasn't externally apparent, it's clear there was a problem as the oil levels were dropping unexpectedly and the garage eventually told him the engine needed stripping. In those

circumstances, while a new gasket may have remedied the situation in April 2023, the damage caused by that leaking gasket would have been exacerbated by the delay in getting the car repaired. I don't think it would be fair to hold Black Horse responsible for that either as they weren't made aware of the problem until a year later.

My final decision

For the reasons I've given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 7 May 2025.

Phillip McMahon
Ombudsman