

The complaint

Ms B complains about problems she has had with a car Black Horse Limited supplied to her under a hire purchase agreement.

What happened

The facts of this case are familiar to both sides, so I don't intend to repeat them again in detail here. Instead, I'll provide a brief summary.

Ms B entered into a hire purchase agreement with Black Horse in August 2023 to purchase a car. The cash price of the car was £6,700. The total amount of credit was £4,900 and the total amount due under the agreement, including interest and charges, was £8,302.20. This was to be repaid through 59 monthly instalments of £108.37, followed by a final repayment (including payment of the Purchase Fee) of the same amount.

In late October 2023 Ms B noted the engine management light (EML) had illuminated and the vehicle broke down. It was attended by a roadside assistance firm who identified a fault code for *clutch pedal position switch malfunction*. The code was cleared, and Ms B was advised to take the vehicle to the garage for further inspection.

It is my understanding that Ms B then continued to drive the vehicle until, in late January 2024, a garage (I'll call 'Business V') carried out a service and the clutch switch was replaced. Ms B says that since then the EML intermittently returned.

In early June 2024, Ms B says the vehicle suffered a *total failure*. It was attended by a recovery firm who removed and cleared two fault codes related to the *intake camshaft position performance* and *exhaust camshaft position performance*.

Ms B booked in the car to be seen by Business V for, according to the check-in note, the following reasons:

- *EML illuminated*
- *Tapping sound when accelerating*
- *Vehicle did not start on one occasion*
- *Rattling sound*

Business V inspected the vehicle and identified fault codes for *timing faults*. Business V fitted new timing solenoids and a new water pump. It also topped up the oil level. I understand these works were carried out at no direct cost to Ms B.

In July 2024 Ms B noted the EML had illuminated again. She contacted Business V to arrange for the car to be looked at again. A job card from the time states the mechanic identified fault codes linked to intake and exhaust timing faults. The oil level was topped up by two litres which cleared the faults. However, following a test drive, one of the fault codes returned, so the mechanic suspected there was a problem with the intake and exhaust timing sensors. These items were replaced.

Around this time Ms B complained to Black Horse about the quality of the vehicle.

In the months that followed Ms B continued to experience a number of problems with the vehicle.

In September 2024, Black Horse issued a final response in which it did not uphold the complaint. In short, it said that *due to the vehicle covering around 22,000 miles in [Ms B's] ownership and the parts being wear and tear components there is no evidence that these would have been unsatisfactory quality at the point of supply.*

Unhappy with this, Ms B referred her complaint to our service. One of our investigators looked into what had happened and, in March 2025, issued their findings. In short, our investigator said he did not think the complaint should be upheld because if the *car been inherently faulty when it was supplied, [he would] have expected it to fail much sooner. So [he thought] the car was of satisfactory quality when it was supplied.*

Ms B did not agree with our investigator and, in doing so, provided her reasons why.

As an agreement couldn't be reached, the complaint has been passed to me to review afresh.

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 do not think this complaint should be upheld. I know this will come as a disappointment to Ms B, but I'll explain why I think this is a fair outcome in the circumstances.

However, before I do, I'm aware that I've summarised this complaint above in less detail than it may merit. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome. I will, however, refer to those crucial aspects which impact my decision.

Lastly, I would add that where the information I've got is incomplete, unclear or contradictory, I've based my decision on the balance of probabilities.

The agreement in this case is a regulated consumer credit agreement. As such, this service is able to consider complaints relating to it. Black Horse was also the supplier of the goods under this type of agreement, and responsible for a complaint about their quality.

The Consumer Rights Act 2015 is of particular relevance to this complaint. It says, amongst other things, that every contract to supply goods is to be treated as including a term that the quality of the goods is satisfactory.

The Consumer Rights Act 2015 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. So, it seems likely that in a case involving a car, the other relevant circumstances a court would take into

account might include things like the age and mileage at the time of sale and the vehicle's history.

The Consumer Rights Act 2015 says 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 goods.

Black Horse did not supply Ms B with a new car here. The car was around six years old and had travelled just under 58,300 miles at the point of supply. And while it was certainly not an inexpensive car – the price was a good deal less than it would have been new.

So, I think it is fair to say that a reasonable person would expect that it would not necessarily perform as well as a new car. And there would be a risk – if not an inevitability - of wear and repairs arising from previous use and maintenance by former users.

In other words, there's a greater risk this car might need repair and/or maintenance sooner than a car which wasn't as road-worn.

I don't think there's any dispute that Ms B has experienced a number of problems with the car. This has been well evidenced by both Ms B's detailed testimony and the information both she and Black Horse has sent us, including but not limited to the invoices and job cards from Business V.

But the simple existence of faults in itself isn't enough to hold Black Horse 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.

Under the Consumer Rights Act 2015, where a fault occurs within the first six months, it is assumed that the fault was present or developing at the point of supply and its generally up to the business to put things right. The business is allowed one opportunity to repair the fault. If the repair isn't successful, the consumer can reject the car. After six months the burden of proof is reversed and it's up to the consumer to show that the fault was present or developing at the point of supply. I've kept this in mind when considering this matter.

The first problem Ms B encountered with the vehicle was the illumination of the EML which was identified as being caused by a *clutch pedal position switch malfunction* in late October 2023. At this point, Ms B had owned the car for around three months during which time it had been driven around 5,650 miles. The fault codes were cleared, and Ms B was seemingly able to drive the vehicle for around a further 6,350 miles before the clutch switch was replaced in late January 2024. As this matter was rectified – and bearing in mind the fairly significant mileage Ms B was able to cover (a total of a little under 12,000 miles) in a relatively short period of time - I can't say it speaks to any failure to meet the requirements under the Consumer Rights Act 2015.

I understand Ms B says the EML returned intermittently in the months that followed, however it appears the next documented problem with the vehicle took place in June 2024 when Ms B says the vehicle suffered a *total failure*. It was attended by a recovery firm who removed and cleared two fault codes related to the *intake camshaft position performance* and *exhaust camshaft position performance*. Following this, an inspection by Business V resulted in a new water pump and new timing solenoids being fitted. At this point, Ms B had owned the vehicle for around 11 months. And, at the time of the inspection by Business V, the vehicle had travelled a little over 21,000 miles since Ms B had taken possession of it.

I understand that in the months that followed Ms B continued to experience problems with the vehicle including, but not limited to, noises from the engine, issues with the timing

sensors and spluttering on start-up. As a result, the car was returned to Business V on multiple occasions for further inspection and repairs.

As I've said, under the Consumer Rights Act 2015, the rebuttable presumption that faults were present at point of sale or supply doesn't apply at the point Ms B raised her concerns about the vehicle in June 2024 or subsequently- at which point she had owned the vehicle for around 11 months. So, it would fall to Ms B to show both that the current problem amounts to a lack of satisfactory quality and that this was present or developing at the point the car was supplied.

On balance, and in the absence of persuasive evidence to suggest otherwise, I can't fairly conclude the problems Ms B experienced with the vehicle from June 2024 onwards were problems that were already present at the point of supply. I say this because it appears that Ms B had travelled a reasonably significant number of miles (a little over 21,000) in the car over 11 months by June 2024 which is significantly more than average annual mileage for a car and is likely to cause notable stress on the parts of an already road worn car. I don't think Ms B could have done this if the faults were already present. It strikes me as more likely than not that these issues arose from reasonably expected wear and tear bearing in mind the nature of the problems, as well as the overall age and mileage of the vehicle.

For clarity, I don't suggest Ms B would be unable to provide evidence to show both that the problems she has had with the vehicle amounts to a lack of satisfactory quality and that these were present or developing at the point the car was supplied. And Black Horse should be alive to the possibility that if Ms B does subsequently present further evidence to it in this regard, it might need to review its position. Although I would add, as our investigator noted, owing to the time that has passed and the mileage covered since taking ownership – as well as repairs completed so far – it may be somewhat difficult for an independent inspection of the vehicle to produce conclusive results.

Although there is not sufficient evidence to point to the issues with the vehicle being present at the point of sale, I have also thought about durability – which is a factor when considering satisfactory quality under the Consumer Rights Act 2015. This is because a car is expected to be reasonably durable in the circumstances. But around when I note Ms B's car experienced, in Ms B's words, a *total failure* in June 2024, it had travelled over 75,500 miles (including a little over 21,000 miles whilst in Ms B's possession). So, it is difficult for me to say that it wasn't reasonably durable in the circumstances as available information suggests (and without an expert report to say otherwise) the damage would appear to be as a result of reasonably expected wear and tear.

It follows that I don't think there is sufficient evidence to show the car was of unsatisfactory quality at the time of supply.

Service history

Whilst I recognise it is not necessarily the crux of Ms B's complaint, I note in her complaint to Black Horse and in her submissions to our service, she has queried why she was sold a car that *apparently has no service history*.

I've not been presented with evidence – and nor has it been suggested by either party - that the car was marketed as having a full-service history. Equally based on Ms B's testimony there isn't enough to suggest she asked about the car's service history before she bought it which, if that was a key consideration for her in the decision-making process, I find it would've been reasonable for her to have done so. But I don't have enough evidence to say she did. For these reasons, I don't think the agreement was mis-sold on this basis.

Summary

Having thought carefully about everything that has happened, it is difficult for me to make a finding that the car is not of satisfactory quality when considering the nature of the problems, the overall age and mileage of the vehicle and, importantly, the absence of expert evidence in support of this position.

What's more, the passage of time and additional mileage since taking ownership introduces more variables and difficulty in concluding the car was not of satisfactory quality at the time of supply, as opposed to other factors – such as components reaching the end of their serviceable life and/or wear and tear.

Looking at all of this in the round, I'm not persuaded that Ms B's car was of unsatisfactory quality when it was supplied. So, I can't hold Black Horse responsible for the problems Ms B has experienced with it. Therefore, I do not think Black Horse need to do anything further to resolve this complaint.

I do sympathise with Ms B, as unless the work to the vehicle has been carried out under warranty – and I'm not clear whether that is the case or not - she is likely going to have to pay (or possibly already has paid) a not insignificant sum to rectify the problems with the car. And, in any event, she has undoubtedly experienced a great deal of inconvenience and concern by what has happened.

But Ms B does not have to accept my findings and if she wishes she can pursue her dispute through more formal avenues such as court (seeking appropriate legal advice as she sees fit).

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 Ms B to accept or reject my decision before 14 August 2025.

Ross Phillips
Ombudsman