

The complaint

Mrs H is unhappy that a car supplied to her under a hire purchase agreement with Black Horse Limited (Black Horse) was of an unsatisfactory quality.

When I refer to what Mrs H or Black Horse have said or done, it should also be taken to include things said or done on their behalf.

What happened

In December 2021, Mrs H acquired a used car through a hire purchase agreement with Black Horse. The car was first registered in September 2017 and the finance agreement confirmed it had travelled around 38,492 miles. The cash price of the car was £41,799 and she paid a deposit of £10,000, which was the equity from a car she part exchanged. The amount of credit was for £31,799 and the duration of the agreement was 48 months; with 48 monthly payments of around £840.

On the day Mrs H entered into the agreement, the Engine Management Light (EML) was illuminated on the dashboard. So, she kept the car she'd part exchanged until the dealership had repaired the fault.

Mrs H says the EML reilluminated days after she collected the car, so she returned it to the dealership again. However, the dealership disputes this and says Mrs H cancelled her booked inspection as the light had gone off.

In July 2022, the car broke down due to a Diesel Particulate Filter (DPF) fault. A temporary repair was carried out by roadside assistance, and Mrs H was advised to have the car inspected by a garage. Mrs H contacted the dealership to report the issue. Due to the amount of time she'd been in possession of the car, they advised her to get a diagnostic report to confirm the fault was present or developing at point of supply. The dealership say this was never received.

In February 2023, the car broke down again due to a DPF fault. Again, a temporary repair was done, and Mrs H was advised to have the car inspected immediately.

Mrs H complained to Black Horse about the quality of the car in May 2024. In July 2024, the car broke down again due to the DPF being blocked. The car was recovered and deemed undrivable.

Black Horse partially upheld the complaint. They said the car had an existing EML fault at the point of supply, that required repair. They offered £100 compensation in recognition of the distress and inconvenience this caused, and a further £50 for the delay in responding to the complaint. However, they didn't uphold Mrs H's complaint about the later breakdowns, due to there being no evidence these were caused by faults that were present or developing at point of supply.

After referring her complaint to this service, Mrs H received a repair estimate quote in excess of £31,000, for a replacement DPF and new engine.

Our Investigator reviewed matters and didn't think Black Horse needed to do anymore to put things right for Mrs H. They said they didn't have enough to say the later DPF faults were present or developing at point of sale, and were more likely to be a result of the cars use since Mrs H acquired it.

Mrs H didn't agree. In summary, she said she couldn't test drive the car as it was faulty at the point of supply, there's no evidence the dealership regenerated the DPF and she was left without a car when she took the car back to the garage for a second repair.

As no agreement has been reached, the matter 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.

Having done so, I've reached the same overall conclusions as the Investigator, and for broadly the same reasons.

I think it's important to firstly explain I've read and taken into account all of the information provided by both parties, in reaching my decision. If I've not reflected something that's been said it's not because I didn't see it, it's because I didn't deem it relevant to the crux of the complaint. This isn't intended as a discourtesy to either party, but merely to reflect my informal role in deciding what a reasonable outcome is. Where evidence has been incomplete or contradictory, I've reached my view on the balance of probabilities – what I think is most likely to have happened given the available evidence and wider circumstances.

In considering this complaint I've taken into account 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 H was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we are able to investigate complaints about it.

The Consumer Rights Act 2015 (CRA) covers agreements such as the one Mrs H entered into. Under this agreement, there is an implied term that the goods supplied will be of satisfactory quality. The CRA says that goods will be considered of satisfactory quality where they meet the standard that a reasonable person would consider satisfactory – taking into account the description of the goods, the price paid, and other relevant circumstances. In this case those relevant circumstances include, but are not limited to, the age, mileage and cash price of the car at the point of supply. The CRA 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.

In Mrs H's case the car was used, with a cash price of £41,799. It had covered around 38,492 miles and was over four years old when she acquired it. So, the car had travelled a reasonable distance, and it is reasonable to expect there to be some wear to it because of this use. I would have different expectations of it compared to a brand-new car. As with any car, there is an expectation there will be ongoing maintenance and upkeep costs. There are parts that will naturally wear over time, and it is reasonable to expect these to be repaired or replaced. And with second-hand cars, it is more likely parts will need to be repaired sooner or be worn faster than with a brand-new car. So, Black Horse wouldn't be responsible for anything that was due to normal wear and tear whilst in Mrs H's possession.

However, where it's found that a car was faulty at point of sale, or that the car wasn't sufficiently durable, and this made the car not of a satisfactory quality, it'd be fair and reasonable to ask the finance provider, in this case Black Horse, to put this right.

I've carefully considered Mrs H's version of events and the evidence she's provided. Having done so, it's clear there have been faults that have needed repairing since the car has been in her possession. To uphold this complaint, I would need to be persuaded that these faults were present when the car was supplied to Mrs H, and they also meant the car was of unsatisfactory quality.

EML

It's not disputed here that there was a fault relating to the EML when Mrs H acquired the car, or that this made the car of unsatisfactory quality.

The CRA sets out that Mrs H has a short term right to reject the car within the first 30 days if the car is of unsatisfactory quality. However, she would need to ask for rejection within that time. Mrs H would not be able to retrospectively exercise her short term right of rejection after the 30 days have passed. So, even though there was a fault which made the car of unsatisfactory quality, Mrs H could only exercise her short term right to rejection within the first 30 days, and only if she expressed her wish to do so – which she didn't do.

Mrs H agreed to the car being repaired, which was carried out within a reasonable timeframe and at no cost to her, as I'd expect. I've considered that there is conflicting evidence here in relation to the dates the first repairs took place. But what is consistent throughout both Mrs H and Black Horse's testimonies is that Mr H was kept mobile while the first repairs were carried out. And I find this to be a reasonable remedy considering the CRA.

Mrs H says days after collecting the car, the EML illuminated again, so she returned it to the dealership for additional repairs, where it remained for weeks – during which time she wasn't kept mobile with a courtesy car.

However, Black Horse's version of events differs to Mrs H's regarding the car going back to them for a second repair. They say three days after collecting the car, Mrs H notified the dealership the EML had illuminated again and an appointment to inspect the car was booked for January 2022. However, this was later cancelled by Mrs H, as the light had gone off.

I've carefully considered the submissions from both parties. I note Mrs H asked the supplying dealership for the information they hold about her and was provided with a timeline of events, said to reflect the notes recorded on their files at the time. This confirmed the date Mrs H says she returned the car for a second repair, as the date the first repair was completed. And that she didn't collect the car until the following day. It also refers to a call that took place three days later, relating to an ongoing EML issue. It seems unlikely the dealership would have a record of a call about the EML illuminating around the same time Mrs H said the fault reoccurred, or a later call about cancelling the inspection, if these calls didn't take place.

Mrs H has provided a bank statement and a letter relating to congestion charges, which she says shows she still had her old car during the time she says the car went in for a second repair. However, the letter confirms her old car had been removed from her auto-pay service, and is dated 27 December 2021, when Mrs H says the dealership had the new car. And the bank statement shows a charge dated 29 December 2021, but doesn't give any further information about what car this related to. Even if it was Mrs H's old car, this would suggest that if the car did go back for a second repair, she was kept mobile during this time.

Ultimately, I've not seen any evidence of there being an ongoing fault with the car beyond the initial repair, or further repairs taking place. From what I've seen, it seems Mrs H didn't report any further issues with the car to the supplying dealership or Black Horse until the DPF fault occurred in July 2022. So, on balance, I think it's more likely than not the EML repair carried out in December 2021 fixed the fault. So, I don't think Black Horse needs to do anything more here.

DPF

Outside of the first 30 days, the right to reject may only be exercised if the goods don't conform to contract after one repair or replacement. This is known as the single chance at repair, which in this case took place when the EML repair happened in December 2021. So, for me to say Black Horse should now agree to rejection of Mrs H's car, I must first be satisfied that based on evidence, the failure of the DPF was more likely than not either the result of a failed repair, or that it also made the car of an unsatisfactory quality when supplied.

A DPF is a filter that captures exhaust soot, effectively reducing harmful emissions coming from the car. As the filter stores the soot, proper maintenance and regeneration is essential to avoid blockages that can result in damage and costly repairs.

DPF regeneration refers to the removal of the soot build up. And DPF self-regeneration occurs automatically where a car is driven at higher speeds continuously for an extended period of time, as this increases the exhaust temperature to a point where the soot can be burned off naturally. So, this is unlikely to take place where a car is used for frequent short distance journeys. With this in mind, I've taken into consideration Mrs H's use of the car, and the evidence available, when considering if the issues Mrs H experienced were more likely than not to be related to a fault that was present at the point of supply.

The dealership carried out DPF regeneration in December 2021, prior to supplying the car to Mrs H. So, I'm satisfied the car wasn't supplied to Mrs H with an existing blockage in the DPF. Mrs H didn't report any problems with the car again until July 2022, after the car lost power and went into limp mode. At this point, she'd travelled over 4,000 miles in the car. Had the DPF been faulty when the car was supplied to Mrs H in December 2021, I would've expected there to be an indication of this much sooner. I think it's unlikely she would've been able to travel such distance over a seven month period with a defective DPF.

The breakdown report confirmed multiple fault codes related to the DPF but indicated the car was still safe to be driven. However, it explained the car must be checked by Mrs H's chosen repairer at the end of her journey. The dealership say Mrs H did contact them and they referred her to her warranty provider. And later that day, Mrs H visited the garage and advised the DPF was blocked and attempts to regenerate it had not worked. Given the time that had passed and mileage Mrs H had covered since supply, the dealership asked her to obtain a diagnostic report to confirm there was a fault that was present or developing at point of supply – which I don't find to be unreasonable. I haven't seen such a report, or that this was provided to the dealership, so I don't think Black Horse did anything wrong by not taking any further action at this time.

The car broke down again in February 2023. By this time, Mrs H had travelled around a further 4,000 miles in the car. The report confirms error codes again related to the DPF and said: *"needs good 40 [minute] drive on motorway"*. Mrs H was advised again to have the car inspected immediately, but I can't see this happened. Mrs H confirmed to Black Horse that she didn't take the car to a garage every time she had a problem with it, so I think it's more likely than not she didn't on this occasion.

I can see the car underwent a service in March 2023, and passed its MOT in October 2023. The DPF was also cleaned in April 2024. No further issues were reported with the car during this time until July 2024, when the car broke down again.

The breakdown report showed Mrs H had covered over 5,000 miles since it was recovered in February 2023. It confirmed Mrs H had been driving the car while low on coolant, the DPF was blocked, and there were issues with the Exhaust Gas Recirculation (EGR) and throttle body. Mrs H was advised not to drive the car and that the engine may need replacing.

Based on the evidence available to me, including the large number of miles Mrs H was able to travel in the car before experiencing any DPF issues, I'm unable to reasonably conclude the issues Mrs H complains about were present or developing at point of supply. I find there to be insufficient evidence that persuades me that it's more likely than not there was a DPF fault, that would make the car of unsatisfactory quality when it was supplied to Mrs H. I've seen no evidence that confirms the DPF was defective, or repairs were carried out for a DPF fault beyond necessary maintenance in the form of regeneration and cleaning, following expected blockages.

When considering whether the car was reasonably durable, in addition to the large amount of miles covered, I also need to take into consideration the way in which the car was used. Mrs H says she used the car for personal use, travel to and from work and a 240-mile round trip once a fortnight. From what I've seen, Mrs H's commute is only a 1.2-mile journey and she has many amenities local to where she lives. I'm therefore persuaded her personal use more likely than not consisted of frequent but short journeys, in mostly slow-moving traffic, which wouldn't facilitate the self-regeneration of the DPF. And while I don't doubt Mrs H made some longer journeys, her average monthly mileage doesn't support her testimony that she travelled around 500 miles a month in bi-weekly long-distance trips. So, based on the evidence that is available, I'm persuaded it's more likely than not the problems Mrs H experienced with the car were the result of the DPF blocking as it wasn't self-regenerating due to the way it was being used.

So, in summary I find Mrs H was supplied with a car that was of an unsatisfactory quality due to the EML issue. The car was repaired at no cost to Mrs H and she was kept mobile. Black Horse has already made an offer to pay Mrs H £150 compensation for the distress and inconvenience caused, and I think this offer is fair in the circumstances.

As I find all the other issues with the car to be the result of wear and tear while in Mrs H's possession, that do not make the car of an unsatisfactory quality when supplied, I don't agree Black Horse is responsible for the impact or cost caused by those faults. I realise this will come as a disappointment to Mrs H and I'm sorry to hear she's now facing a significant cost to replace the engine. But for the reasons I've explained, I don't think Black Horse needs to do anything further.

My final decision

For the reasons explained, I uphold Mrs H's complaint about Black Horse Limited and direct them to pay her £150 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 7 August 2025.

Nicola Bastin
Ombudsman