

## **The complaint**

Miss K complains about the quality of a car she acquired under a hire purchase agreement with Black Horse Limited (BH).

When I refer to what Miss K and BH said or did, it should also be taken to include things said or done on their behalf.

## **What happened**

In November 2022, Miss K entered into a hire purchase agreement with BH to acquire a used car first registered in September 2019. At the time, the car had travelled around 11,555 miles. The cash price of the car was around £19,998. There was a deposit of approximately £1,000 and the total amount payable was around £19,998. The agreement's duration was 48 months consisting of first payment of around £294, then 46 monthly repayments of around £294, followed by a final repayment (which included payment of the purchase fee) of about £7,342.

In summary, Miss K said that in September 2024, 22 months after acquiring the car, it stopped working and it refused to turn on due to an engine failure. She said the car was towed to the supply dealership and has been there since. At the time, the car had travelled around 22,069 miles. Miss K believes that she should be entitled to reject the car. As she was unhappy with the situation, she raised a complaint with BH.

In October 2024, BH wrote to Miss K. In this correspondence BH said that a third-party garage provided some evidence to them regarding the car. The third-party garage confirmed faults were determined, this was 22 months and 10,514 miles since the car's acquisition. Also, they said, they were unsure if they would have been present/developing at the point of acquisition due to the length of time in ownership. BH said that they have reviewed the information Miss K provided, but they said they have not received any mechanical evidence that there was a fault present/developing at the point of sale. BH said Miss K had 22 months and 10,514 miles of trouble-free motoring before a fault became apparent. As such, they said they are not upholding her complaint because there is no mechanical evidence that there was a fault present/developing at the point of sale.

In this correspondence, BH also said that Miss K provided them with evidence that the front left tyre was changed approximately 17 months since purchase (April 2024). A further 3 tyres were then replaced 2 months later (June 2024). But taking into account the time elapsed until the first tyre was changed, and in the absence of any evidence there was a fault, they did not deem they are responsible for these. They also said that the front wipers were also changed around 19 months since acquisition, and they have not been provided with mechanical evidence that there was a fault with the wipers, so they are not responsible for these concerns. In addition, they also addressed the driver's side front right headlight, which had stopped working. They said Miss K advised them of this in September 2024, but as they have been provided with no evidence that this was a fault that was present/developing at the point of sale, they said, they are not responsible for this also.

Miss K remained unhappy, so she referred her complaint to Financial Ombudsman Service (Financial Ombudsman).

Our investigator was of the opinion that the car was of unsatisfactory quality when it was supplied, so the investigator thought that BH should: repair the faults with the engine at no cost to Miss K, refund her in full for the periods where she was immobile and without a courtesy car, as well as any diagnostic costs she has paid for, upon production of receipt. The investigator also thought that BH should add simple 8% interest to the refunded amounts and pay Miss K £250 in compensation to reflect the impact all this had on her.

BH agreed with the investigator, But Miss K disagreed with the investigator. So, the complaint has been passed to me to decide.

After reviewing the case, I issued a provisional decision on 3 June 2025. In the provisional decision I said:

***“What I’ve provisionally 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.*

*Where evidence is unclear or in dispute, I reach my findings on the balance of probabilities – which is to say, what I consider most likely to have happened based on the evidence available and the surrounding circumstances.*

*In considering what is fair and reasonable, I need to take into account the relevant rules, guidance, good industry practice, the law and, where appropriate, what would be considered to have been good industry practice at the relevant time. Miss K acquired the car under a hire purchase agreement, which is a regulated consumer credit agreement. Our service can look at these sorts of agreements. BH is the supplier of the goods under this type of agreement and is responsible for dealing with complaints about their quality.*

*Also, I can only consider the actions/inactions of BH and only the aspects they are responsible for, and I cannot look at certain actions and/or inactions of the dealership or broker or the manufacturer which Miss K might be unhappy about. So, in this decision I only focused on the aspects I can look into. And, I am only looking at the events that have been raised by Miss K with BH, the ones they had an opportunity to address in their correspondence sent to her in October 2024.*

*The Consumer Rights Act 2015 (CRA) covers agreements such as the one Miss K 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. I think in this case those relevant circumstances include, but are not limited to, the age and mileage of the car and the cash price. The CRA says the quality of the goods includes their general state and condition, as well as other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability.*

*In Miss K’s case the car was around three years old, at the time of acquisition had travelled around 11,555 miles, and the total cash price was around £19,998. I would have different expectations of it compared to a brand-new car. As with any car, there is an expectation that 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 replaced. And with second hand cars, it is more likely parts will need to be replaced sooner or be worn faster than with a brand-new*

car. So BH would not be responsible for anything that was due to normal wear and tear whilst in Miss K's possession. But given the age, mileage and price paid, I think it is fair to say that a reasonable person would have high expectations of it and would expect the quality of the car to be of a higher standard than a car which is more road worn or has a lower price. Also, I think a reasonable person would expect it to be free from defects for a considerable period of time.

I realise our investigator was of the opinion that the car was of unsatisfactory quality when it was supplied and that BH has already accepted the investigator's finding, but for completeness, in this decision I have considered all the points that have been raised by both sides.

I first considered if there was a fault with the car. And from the evidence on file there does seem to be an issue with the car. Miss K has provided pictures of the fault codes that were established by the third-party garage where the supplying dealership asked Miss K to go to get the car diagnosed. There were several codes that related to the ECM (Engine Control Module). Among them were fault codes regarding the Particulate Filter Restriction, the GPF Upstream Exhaust Gas Temperature Sensor Circuit Range, Downstream Oxygen Sensor Circuit Open, and a fault code to do with the Immobilizer Status. There were also codes for the EPS (Electric Power Steering), these consisted of a codes around lost communication with the ECM and the Instrument Pack (IPK). Also, there was a lost communication fault code relating to the HVAC (Heating Ventilation and Air Conditioning). In addition to this, the third-party garage said the engine was knocking and they advised Miss K not to drive the car as it may cause further damage.

Based on the above I think, most likely, the car was faulty, but just because there are, or there were, faults found with the car does not mean automatically the car was of unsatisfactory quality at the point of supply. So, I've gone on to consider if the car was of satisfactory quality when it was supplied to Miss K.

In summary, BH, do not believe that Miss K should be able to reject the car because, they said, Miss K was able to drive around 11,000 miles after the point of the sale, and had ownership of the car for almost two years of.

They also said that she was not able to provide them any evidence to confirm the car was of unsatisfactory quality at the point of purchase. So, they felt that due to the considerable time elapsed and the mileage covered, it is not plausible there was an engine fault present at the point of the sale. BH felt that Miss K should have provided evidence to them, such as an independent report. So, I have taken into consideration the points BH have made.

I agree with BH that it would have been beneficial for Miss K to have provided an independent inspection report, or to have allowed BH to inspect the car when they offered to pay for an independent inspection, but overall, I do not think the car was durable. I say this because even though Miss K was able to travel a reasonable number of miles, when considering the mileage of the car when supplied, the price paid, combined with when the faults first became apparent, I think most likely a reasonable person would not consider the car to be of satisfactory quality. When arriving at this conclusion I have considered that a reasonable person would not expect a car which travelled around 22,069 miles to have such problems with the engine. I'm persuaded that, more likely than not, the car would not be considered reasonably durable due to all the faults mentioned above. So, considering the specific circumstances of this particular case, this most likely would render the car of unsatisfactory quality.

BH also mentioned that the MOT from November 2023 states, as an advisory, that the car's coolant was low at the time of testing and that there was an oil leak. In addition, BH said the

third-party garage stated there was a possibility that the car had been running with insufficient oil, when it was brought to them for diagnostics. So BH feel that all this information suggests the car may not have been fully maintained during Miss K's ownership, and that Miss K should not have been driving the car with warning messages illuminating. So, I have considered this too, but I think the car was maintained as Miss K purchased a maintenance package for the car at the time of its supply. And from BH's notes, it appears that the car was serviced by the supplying dealership in December 2023 which is shortly after that November 2023 MOT. So, it seems that, most likely, Miss K was maintaining the car and the issue with the coolant and the oil would have been addressed when the car had its service in December 2023. Also, Miss K mentioned that she was checking and using the manufacturers' specified fluids whenever these needed topping up. Finally, when she raised the issues, she was experiencing with the car, the supplying dealership told her where to go to get the car diagnosed and when that third-party garage told her not to drive the car anymore, she had it towed to the supplying dealership instead of driving it there. As such, taking all the circumstances of this case into consideration, I do not think there is enough evidence to suggest that, most likely, Miss K was not maintaining the car or that a user error was the reason the car's engine had failed.

Miss K also said that she had to change the tyres, wipers, and that one of the car's headlights had stopped working. I do not know what thread was remaining on tyres at the point of supply, but the car passed its MOT around the time of supply so had there been issues with these items they, most likely, would have been flagged at that point in time. As such, I think, most likely, the tyres were within the allowed safety standard at the time of supply. Tyres and wipers are wear and tear items, so I do not think it would be fair and reasonable for BH to be responsible for these. I also do not think that BH should be responsible for the headlight no longer working as this was raised by Miss K after she had the car for around 22 months and at the time the car had travelled around 22,069 miles. So, I have not seen enough information to say that these were faults that were present/developing at the point of sale. And, when considering the age and mileage of the car, combined with when these issues were noted, I think most likely, these are faults that have occurred because of normal wear and tear, and parts coming to the end of their life cycle.

Next, I have considered whether it would be fair for Miss K to be able to reject the car at this stage or would a repair be a fair option.

Miss K, in summary, thinks she should be allowed to reject the car because of the amount of time that has passed, she does not trust BH to repair the car, and also because she has now moved overseas.

The CRA sets out that Miss K has a short term right to reject the car within the first 30 days, if the car is of unsatisfactory quality, not fit for purpose, or not as described, and she would need to ask for the rejection within that time. Miss K would not be able to retrospectively exercise her short term right of rejection at a later date.

The CRA does say that Miss K would be entitled to still return the car after the first 30 days, if the car acquired was not of satisfactory quality, not fit for purpose, or not as described, but she would not have the right to reject the car until she has exercised her right to a repair first – this is called her final right to reject. And this would be available to her if that repair had not been successful. And yes, some time has passed since Miss K raised the issues with BH, but had she allowed BH to inspect the car when they offered to pay for an independent inspection, most likely, this time may have been reduced. So, I think a repair would be a fair and reasonable option, considering all the circumstances of this complaint. Only then, and if that repair were to fail, it may be reasonable for Miss K to reject the car. This is in line with what the CRA sets out, and it would not be fair and reasonable that this remedy should be any different just because Miss K has moved overseas.

*As I mentioned above I think a repair is the right outcome in this case, but considering Miss K's ideal solution would be to reject the car, if BH thinks it would be disproportionate to make the repairs, as this would impose costs on them that most likely would be deemed unreasonable, then Miss K should be allowed to reject the car instead of arranging a repair. If BH chose this option, they should end the hire purchase agreement with nothing further to pay and collect the car from wherever it is located at no cost to Miss K.*

*Also, whichever option BH chooses, whether a repair or rejection of the car, they should also do all of the below:*

*Upon production of a paid receipt, refund Miss K any money she paid for the diagnostic and towing of the car, as she would not have incurred this cost, had BH provided her with a car that was satisfactory quality.*

*Miss K has been able to use the car until September 2024, so I think it is reasonable she pays for this use. So, BH can keep any payment Miss K was responsible for making up until she stopped using the car in September 2024. Miss K should not be responsible for any payments after that date and until the car is fixed. So, if she made any payments after September 2024 these should be refunded to her.*

*After Miss K towed the car to the supplying dealership in September 2024, she was using taxis to keep herself mobile. But as I'm already saying that she is not responsible for any monthly contractual payments from there onwards, until the car is repaired, I do not think it would be reasonable for me to ask BH to refund the taxi expenses she has incurred. When coming to this decision, I have considered that in certain months she would have spent less on taxis than her monthly payments, while in other months she would have spent more than her contractual payment on the finance agreement. And, I have also considered that Miss K could have done more to mitigate her losses, by for example arranging car rentals instead of using taxi which tend to be, on average, less expensive than taxis.*

*BH should also refund any deposit/advance payment Miss K directly made herself towards the finance agreement. I think in this case the amount is around £1,000. But only refund this amount, if Miss K is allowed to reject the car instead of a repair being arranged.*

*Any adverse information should be removed from Miss K's credit file. If BH chooses to end the hire purchase agreement with nothing further to pay and collects the car, then the credit agreement should be marked as settled in full on her credit file, or something similar, and should not show as a voluntary termination.*

*BH should also add interest to the refunded amounts from the date of each payment until the date of settlement. Interest should be calculated at 8% simple per year.*

*I also think that this matter caused Miss K a lot of distress and inconvenience when trying to resolve it. She had to take the car to get it diagnosed and arrange her own transport which I think she would not have had to do if BH supplied her with a car that was of a satisfactory quality. And she told us that not having access to her car has impacted her life and health. So, I think BH should pay her £250 in compensation to reflect the distress and inconvenience caused.*

### ***My provisional decision***

*For the reasons given above, I intend uphold this complaint and direct Black Horse Limited to:*

1. *Arrange and carry out the repairs to the engine at no cost to Miss K and within a reasonable timescale. Or end the hire purchase agreement with nothing further to pay and collect the car from wherever it is located at no cost to Miss K;*
2. *Upon production of a paid receipt, refund Miss K any money she paid for the diagnostic;*
3. *Upon production of a paid receipt, refund Miss K any money she paid for the towing of the car;*
4. *Refund any payments Miss K made after September 2024. BH can keep any payment Miss K was responsible for making up until she stopped using the car in September 2024. Miss K should not be responsible for any payments after that date and until the car is fixed;*
5. *Refund any deposit/advance payment Miss K directly made herself towards the finance agreement, in this case, I think, around £1,000. But only refund this amount if Miss K is allowed to reject the car instead of a repair being arranged;*
6. *Add 8% simple interest per year to all refunded amounts, from the date of each payment to the date of settlement;*
7. *Pay Miss K £250 compensation;*
8. *Remove any adverse information recorded on Miss K's credit file in relation to this credit agreement. And if the hire purchase agreement is ended, then the credit agreement should be marked as settled in full on her credit file, or something similar and should not show as voluntary termination.*

*If Black Horse Limited considers that tax should be deducted from the interest element of my award, they should provide Miss K with a certificate showing how much they have taken off so she can reclaim that amount, if she is eligible to do so."*

I asked both parties to provide me with any additional comments or information they would like me to consider by 17 June 2025.

Miss K replied and said that I made a fair decision, which she accepts.

Following the provisional decision BH raised concerns as to who should be responsible for any cosmetic damage the car may have. They said they feel Miss K should be responsible for the cosmetic damage costs, which are outside of what would be considered fair wear and tear. So, on 15 July 2025 I wrote to both parties and said:

*"I would like to clarify my redress from the provisional decision.*

*In the provisional decision I said I intend to uphold this complaint and direct Black Horse Limited to:*

*"1. Arrange and carry out the repairs to the engine at no cost to Miss K and within a reasonable timescale. Or end the hire purchase agreement with nothing further to pay and collect the car from wherever it is located at no cost to Miss K;"*

So, to clarify, when I say: "Or end the hire purchase agreement with nothing further to pay and collect the car from wherever it is located at no cost to Miss K;" I mean:

*"Or end the hire purchase agreement and take the car back without charging for collection;"*

As such, what I am saying is that, if Black Horse Limited decided to end the finance agreement, they should not be charging Miss K for collection of the car.

*If Black Horse Limited chooses to end the finance agreement and deduct from the redress any amounts for damage they may deem to be outside of fair wear and tear, then Miss K may be able to raise a separate complaint if she disagrees with any such levied amounts. So to be clear, in this decision I am not considering repairs to any cosmetic damage. I am not considering where and/or when it may have occurred. And I am not considering if any cosmetic damage would be deemed outside of fair wear and tear.*

*As such, I intend to uphold this complaint as per my provisional decision, issued on 3 June 2025, and direct Black Horse Limited to:*

- 1. Arrange and carry out the repairs to the engine at no cost to Miss K and within a reasonable timescale. Or end the hire purchase agreement and take the car back without charging for collection;*
- 2. Upon production of a paid receipt, refund Miss K any money she paid for the diagnostic;*
- 3. Upon production of a paid receipt, refund Miss K any money she paid for the towing of the car;*
- 4. Refund any payments Miss K made after September 2024. BH can keep any payment Miss K was responsible for making up until she stopped using the car in September 2024. Miss K should not be responsible for any payments after that date and until the car is fixed;*
- 5. Refund any deposit/advance payment Miss K directly made herself towards the finance agreement, in this case, I think, around £1,000. But only refund this amount if Miss K is allowed to reject the car instead of a repair being arranged;*
- 6. Add 8% simple interest per year to all refunded amounts, from the date of each payment to the date of settlement;*
- 7. Pay Miss K £250 compensation;*
- 8. Remove any adverse information recorded on Miss K's credit file in relation to this credit agreement. And if the hire purchase agreement is ended, then the credit agreement should be marked as settled in full on her credit file, or something similar, and should not show as voluntary termination.*

*If Black Horse Limited considers that tax should be deducted from the interest element of my award, they should provide Miss K with a certificate showing how much they have taken off so she can reclaim that amount, if she is eligible to do so."*

Following the above I asked both parties to provide me with any additional comments or information they would like me to consider by 29 July 2025.

Miss K replied and said that she has no comments, and that she is *"happy with the justice the ombudsman has given me."*

BH have replied and said they accept and are making arrangements to have the car diagnosed. They also said they will be deducting an amount for damage to the car from any redress payable to Miss K.

### **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 her response to my provisional decision, Miss K said that she accepts it. In summary, she also mentioned that she believes the best option for BH is to end the hire purchase agreement as she is no longer in the country, and because she feels there has been a

complete breakdown of trust. She also mentioned that she cannot afford to pay for her new responsibilities overseas travel and the car.

With the above in mind, I just wanted to clarify that, as I mentioned in my provisional decision, I still think a repair is the right outcome in this case. However, considering that Miss K's ideal solution would be to reject the car, and if BH thinks it would be disproportionate to make the repairs, as this would impose costs on them that, most likely, would be deemed unreasonable, then Miss K should be allowed to reject the car instead of arranging a repair. But it is for BH to choose this option and not for Miss K.

However, I remind BH that if Miss K is not able to make payments due to her financial situation, BH should work with her to arrange an affordable plan for her. One that allows her to repay the money due in a reasonable amount of time or in a way that is sustainable (a plan that takes her circumstances into account and is realistic, affordable, and leaving her with sufficient disposable income to account for other bills and contingencies).

When BH replied to my provisional decision and follow up explanation dated 15 July 2025, they said they are making arrangements to have the car diagnosed and that they will be deducting an amount for damage to the car from any redress payable to Miss K.

So just to clarify, again, if BH choses to end the finance agreement (instead of making repairs to the engine) and they deduct from the redress any amounts for damage they may deem to be outside of fair wear and tear, then Miss K may be able to raise a separate complaint if she disagrees with any such levied amounts. To be clear, in this decision I am not considering repairs to any cosmetic damage. I am not considering where and/or when it may have occurred. I am also not considering if any cosmetic damage would be deemed outside of fair wear and tear. I am only considering the repairs to the engine and I am making no comments or findings whatsoever regarding any cosmetic damage, whether it should be fixed or not, and who should pay for it.

Taking everything into consideration, I still feel that the proposed outcome in my provisional decision and the redress, as clarified in my correspondence to both parties on 15 July 2025, is fair and reasonable.

### **My final decision**

For the reasons given above, and in my provisional decision, I uphold this complaint and direct Black Horse Limited to:

1. Arrange and carry out the repairs to the engine at no cost to Miss K and within a reasonable timescale. Or end the hire purchase agreement and take the car back without charging for collection;
2. Upon production of a paid receipt, refund Miss K any money she paid for the diagnostic;
3. Upon production of a paid receipt, refund Miss K any money she paid for the towing of the car;
4. Refund any payments Miss K made after September 2024. BH can keep any payment Miss K was responsible for making up until she stopped using the car in September 2024. Miss K should not be responsible for any payments after that date and until the car is fixed;
5. Refund any deposit/advance payment Miss K directly made herself towards the finance agreement, in this case, I think, around £1,000. But only refund this amount if Miss K is allowed to reject the car instead of a repair being arranged;
6. Add 8% simple interest per year to all refunded amounts, from the date of each payment to the date of settlement;

7. Pay Miss K £250 compensation;
8. Remove any adverse information recorded on Miss K's credit file in relation to this credit agreement. And if the hire purchase agreement is ended, then the credit agreement should be marked as settled in full on her credit file, or something similar, and should not show as voluntary termination.

If Black Horse Limited considers that tax should be deducted from the interest element of my award, they should provide Miss K with a certificate showing how much they have taken off so she can reclaim that amount, if she is eligible to do so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 4 September 2025.

Mike Kozbial  
**Ombudsman**