

The complaint

Ms M complains that a car acquired with finance from Black Horse Limited trading as Land Rover Financial Services wasn't of satisfactory quality.

What happened

In December 2018 Ms M was supplied with a car and entered into a hire purchase agreement with Black Horse. At the point of supply the car was around three years old and had covered around 9,588 miles.

Soon after entering into the agreement, Ms M experienced issues with the brakes squeaking. She took the car back to the supplying dealership who cleaned the brake discs. This resolved the issue.

In October 2022 Black Horse wrote to Ms M advising her that her finance agreement was coming to an end and setting out her options. The options were:

- Part exchange the car for another one
- Keep the car and pay the final payment of £14,536
- Return the car

In November 2022 Ms M took the car to the supplying dealership to be serviced. At the service the supplying dealership reported an oil leak coming from the sump. The sump was replaced.

In December 2022 Ms M took the car back to the supplying dealership because there was a noise from the engine. The supplying dealership carried out a diagnostic and found that the turbo had failed. It advised Ms M that a new engine was needed.

Ms M raised a complaint with Black Horse. She said the supplying dealership had failed to identify the issue with the turbo when it had the car in for servicing. Ms M also complained that when she first got the car the brakes had been squeaking.

In its final response, Black Horse acknowledged that there had been an issue with the brakes. It said that repairs had already been carried out to resolve this at no cost to Ms M. Black Horse offered a payment of £200 to Ms M for the distress and inconvenience caused to her as a result of the issue with the brakes. In relation to the engine failure, Black Horse said it wasn't upholding the complaint, because there was no evidence that the fault was present at the point of supply.

Ms M wasn't happy with Black Horse's response and brought her complaint to this service. She's told this service that she wants to reject the car and that she's left it at the supplying dealership.

Our investigator didn't uphold the complaint. He said that whilst he understood that Ms M felt

that the issue with the turbo should've been identified when the car was serviced, the turbo wasn't a serviceable part of the vehicle and wouldn't form part of the service schedule. The investigator reviewed the service history of the car and said that the services which had taken place in 2021 and 2022 were carried out when the car was significantly over the recommended mileage. He said there was no evidence to suggest that the turbo was faulty at the point of supply and concluded that the turbo failure was most likely due to wear and tear.

Ms M didn't agree. She said she'd had the car serviced every 12 months at the supplying dealership and that she could provide evidence of this. Ms M said that if the turbo failure was due to wear and tear then this should've been visible when the service was carried out in December 2022. Ms M said the supplying dealer had asked her to return the car after it had been serviced so that the oil filter could be changed, and that it was only five days after this that the engine failed.

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.

The Consumer Rights Act 2015 is relevant to this complaint. This says that goods must be of satisfactory quality when supplied. Cars are of satisfactory quality if they are of a standard that a reasonable person would regard as acceptable, taking into account factors such as the age and mileage of the car and the price paid. The legislation says that the quality of goods includes their general condition, as well as things like fitness for purpose, appearance and finish, freedom from minor defects, safety and durability.

The car supplied to Ms M was around three years old and had covered around 9,500 miles. It's reasonable to expect that the car will already have a degree of wear and tear and that it is likely to require more repairs than, say, a brand new car. So, in order to uphold this complaint, I would need to be satisfied that there was a fault with the car at the point of supply, as opposed to a fault which developed due to general wear and tear.

I've reviewed all of the available evidence about the issues with the car. Based on what I've seen, I'm satisfied that there's a fault with the car. I say this because the information and diagnostics provided by the supplying dealership show that the turbo has failed.

Just because there's a fault with the car doesn't mean that it wasn't of satisfactory quality when it was supplied. I've reviewed all of the available evidence to determine whether the car was of satisfactory quality.

Under the relevant legislation, where a fault occurs within the first six months of the point of supply, it's assumed that the fault was present or developing at the point of supply and it's generally up to the business to put things right. The business is allowed one opportunity to repair a fault. If the repair isn't successful, the consumer may request to reject the car. After six months, the burden of proof is reversed, and it becomes the consumer's responsibility to show that any faults were present or developing at the point of supply.

When the car was first supplied there was an issue with the brakes squeaking. The issue was resolved by the dealership at no cost to Ms M. I haven't seen anything to suggest that this issue reoccurred, so it seems likely that the repairs were successful.

The fault with the turbo occurred around four years after the point of supply, so well outside of the first six months. As I've explained above, it's up to Ms M to prove that the fault was present or developing at the point of supply.

An independent inspection report is useful in helping to determine whether a car is of satisfactory quality. Ms M hasn't provided a report or any independent engineering evidence to show that the fault with the turbo was present or developing at the point of supply.

I've taken the age and mileage of the car into account here. During the four years that Ms M had the car, she covered over 85,000 miles. The turbo is a major component part of the engine. If the turbo had been faulty at the point of supply, I don't think it's likely that Ms M would've been able to cover the mileage that she did.

I've also considered durability, because durability is one of the things that we consider when looking at whether a car is of satisfactory quality. A turbo is designed to last the lifetime of a car (or around 150,000 miles). However, it's possible for a turbo to wear out over time depending on how the car is driven. A turbo can also fail for reasons such as oil starvation, oil contamination and foreign object damage.

Ms M has provided evidence to show that she had the car serviced. The service interval for Ms M's car is every 24 months or every 21,000 miles, whichever comes sooner. I've reviewed the service history and I can see that the car was significantly over the manufacturers recommended service interval (in mileage terms) when it was serviced in 2021 and 2022. This is relevant because part of the service schedule involves changing the oil. Oil is essential to the proper functioning of the turbo. If the oil is of poor quality (because it hasn't been changed regularly enough) or if there is insufficient oil, this could be a cause of the turbo failure.

It's also relevant that in the notes provided by the supplying dealership, it's recorded that the sump had an oil leak when the car was brought in for service in November 2022. The dealership's notes state that the sump was replaced. If there had been insufficient oil in the engine prior to the car being brought in for service (because of the oil leak), this could be a cause of the turbo failure.

Taking all of the available information into account, and because there's no evidence to suggest that there was a fault with the turbo at the point of supply, I'm unable to say that the car wasn't of satisfactory quality when it was supplied. So I won't be asking Black Horse to do anything further.

My final decision

My final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 24 October 2023.

Emma Davy
Ombudsman