

## The complaint

Mr K complains about the quality of a car he acquired under a hire purchase agreement ("agreement") with Black Horse Limited trading as Land Rover Financial Services ("LRFS").

## What happened

In June 2018 Mr K purchased a new car under an agreement with LRFS costing £57,016. Under the terms of the agreement, everything else being equal, a deposit of £5,231 was payable immediately (£3,000 from Mr K and £2,231 from the supplying dealership) followed by 47 monthly payments of £654.63 and 1 monthly payment of £30,553 – making a total repayable of £66,551.61 at an APR of 5.9%. The permitted maximum mileage under the agreement was 40,000.

Between January 2019 and March 2020 the car, on at least three occasions, was repaired under warranty. These repairs included repairs (or attempted repairs) to the car's alarm system and Bluetooth. In January 2019 the car had travelled approximately 9,000 miles.

In March 2020 Mr K complained to LRFS about the quality of the car.

Between March 2000 and August 2000 the car, on at least two occasions, was repaired under warranty. These repairs included repairs (or attempted repairs) to the car's alarm system. In August 2020 the car had travelled approximately 27,000 miles.

In August 2020 LRFS issued a final response letter ("FRL"). Under cover of this FRL LRFS said it was prepared to:

- collect the car at no cost to Mr K
- cancel the agreement with nothing further for Mr K to pay
- refund to Mr K the £3,000 deposit he paid
- refund to Mr K £8,255.76 of the monthly agreement payments he had made, broken down as follows:
 

○ 22 x £654.63 monthly agreement payments made	£14,401.86
○ 13,658 miles travelled to June 2019 @ 45p a mile	(£6,146.10)
○ total	£8,255.76
- pay to Mr K £1,513.88 interest on the sums of £3,000 and £8,255.76, broken down as follows:
 

○ gross interest at 8% simple a year	£1,892.35
○ basic rate income tax at 20%	(£378.47)
○ net interest at 8% simple a year	£1,513.88
- pay Mr K £300 for any trouble and upset caused

Mr K didn't accept LRFS' offer and decided to keep the car.

In July 2021 the car passed its first MOT test with no advisories. In July 2021 the car had travelled approximately 37,000 miles.

In August 2022 the car passed its second MOT test with no advisories. In August 2022 the car had travelled approximately 55,000 miles.

In November 2022 Mr K complained to LRFS about the quality of the car.

In December 2022 Mr K confirmed to LRFS that all the faults with the car had been repaired except the fault with the alarm system and Bluetooth.

In January 2023, and after an inspection of the car had taken place with a recorded mileage of approximately 62,000 miles, LRFS issued a second FRL. Under cover of this FRL LRFS said it was prepared to cover the cost of an alarm system repair – on evidence of the same being provided – and to pay £50 for any trouble and upset caused. However, it wasn't prepared to cover the cost of a Bluetooth repair as this was *"a new aspect that was not raised until November 2022 and therefore no evidence it was present or developing at sale"*.

In January 2023 Mr K complained to LRFS about the quality of the car.

In February 2023 LRFS issued a third FRL. Under cover of this FRL LRFS said it wasn't upholding Mr K's complaint.

In March 2023 Mr K complained to our service.

In April 2023 the car was sold. In April 2023 the car had travelled approximately 62,000 miles.

For reasons not material to this complaint LRFS treated the car as having been voluntary surrendered by Mr K, rather than returned by Mr K at the end of the agreement.

Mr K's complaint was considered by one of our investigators who came to the view that LRFS, to the extent it hadn't done so already, should pay Mr K £350 and meet the cost – on evidence being provided – of any alarm system repair undertaken by him.

Mr K didn't agree with the investigator's view and so his complaint has been passed to me for review and 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'm very aware that I've summarised this complaint above in far 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.

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

As the agreement entered into by Mr K is a regulated one this service is able to consider complaints relating to it. LRFS is also the supplier of the goods under this type of agreement and so are responsible for a complaint about their quality.

The Consumer Rights Act 2015 ("CRA") covers agreements like the one Mr K entered into and says that goods should be of satisfactory quality when supplied. Cars are of satisfactory quality if they are of a standard that a reasonable person would find acceptable, taking into account factors such as the age, the mileage and the price paid.

Given the car in this case was new, cost nearly £70,000, the number of repairs undertaken on it and when, I can confirm that I'm of the view that the car was of unsatisfactory quality when supplied to Mr K. But to be fair, I don't think that LRFS dispute this fact.

Given that I'm of the view that the car was of unsatisfactory quality when supplied, what I now need to decide is what, if anything, LRFS should have to do to fairly and reasonably compensate Mr K for this fact.

The CRA allows for a number of remedies in a case like this, rejection, repair or replace. But none of these are viable options because the car has been 'sold on'. So the only thing I can do is direct LRFS, where appropriate, to pay Mr K a financial sum in compensation. And having considered everything the parties have said and submitted, I can confirm that I agree with the investigator that what LRFS should have to do, to fairly and reasonably compensate Mr K, is to pay him £350 and refund him the cost of any repair undertaken on the alarm system, on evidence being provided. I say this because:

- In August 2020 LRFS offered Mr K the chance to reject the car, but he decided to keep it and to continue using it.
- I'm not persuaded Mr K was prevented from rejecting the car in August 2020, or that rejection would have caused him the level of inconvenience he says it would have done.
- After deciding to keep the car and to continue using it Mr K didn't complain to LRFS again for over two years and after he had added approximately 30,000 further miles to car's odometer.
- In February 2023 Mr K confirmed that the only outstanding issues with the car was with the alarm system and Bluetooth.
- The car passed MOT tests in July 2021 and August 2022 with no advisories.
- Mr K was able to travel in the region of 65,000 miles between June 2018 and April 2023 compared to the permitted maximum mileage (under the agreement) of 40,000 (over 48 months) or 48,333 (over 58 months).
- I'm not persuaded that any fault with the Bluetooth made the car, in itself, of unsatisfactory quality.
- Mr K didn't complain to LRFS about the problem with the Bluetooth until some three years after it appears it might have been subject to a repair and after he had added approximately 35,000 miles to the car's odometer.

### **My final decision**

My final decision is that Black Horse Limited trading as Land Rover Financial Services must pay Mr K £350 and refund to him, on evidence being provided, any cost incurred by him in having the alarm system repaired, but it need do nothing further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 9 December 2023.

Peter Cook  
**Ombudsman**