

The complaint

Mr B complains about the quality of a used car that was supplied through a hire purchase agreement with Black Horse Limited (BHL).

What happened

In July 2021, Mr B acquired a used car through a hire purchase agreement with BHL. The car was about six years old and had travelled 70,144 miles when it was supplied to Mr B. The cash price of the car was £6,610, Mr B paid a deposit of £661 so the total amount financed on this agreement was £5,949 payable over 60 Months.

Mr B appears to have had a trouble-free drive of the car for the first 18 months or so, but by February 2023 and after having driven around 10,000 miles in the car, he started to have problems with it.

Mr B explained the error message '*battery charge fault*' kept coming up on the dashboard, so he contacted the dealership who asked him to bring it in. But as Mr B was concerned about the car breaking down due to its poor battery charge, he didn't bring it to dealership.

Mr B said he had the alternator replaced and refurbished, purchased a new battery, a tensioner and drive belt and a new battery sensor. Mr B said this had depleted his savings, so he decided to acquire another vehicle. In April 2023 Mr B complained to BHL about the issues he was experiencing with the car.

In May 2023, BHL issued their final response to Mr B's complaint. BHL didn't uphold his complaint. They said they didn't have any evidence that the issues reported by Mr B were present or developing at the point it was supplied to him.

Unhappy with their decision, Mr B brought his complaint to our service for investigation. Mr B said he isn't happy that BHL is requesting that he brings the agreement up to the halfway point to end it, and a further £250 for collection. He believes that due to the issues he's experienced with the car BHL should waive the charges.

Having considered all the information on file, one of our investigators recommended that Mr B's complaint should not be upheld. The investigator concluded that the car was of satisfactory quality when it was supplied to him, and so BHL were acting fairly by requesting the costs related to a voluntary termination of the car.

Mr B didn't accept the investigator's view. He said he believed it couldn't be disproved that the issues were present when the car was supplied to him. However, as the investigator's view remained unchanged, Mr B asked that his complaint be referred to an ombudsman for a final 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.

In considering what is fair and reasonable, I've thought about all the evidence and information provided afresh and the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and (where appropriate) what I consider to have been good industry practice at the relevant time.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

The agreement in this case is a regulated hire purchase agreement. As such, this service is able to consider complaints relating to it. BHL is also the supplier of the goods under this agreement, and is responsible for a complaint about their quality.

The Consumer Rights Act 2015 (CRA) is relevant in this case. It says that under a contract to supply goods, there is an implied term that "*the quality of the goods is satisfactory, fit for purpose and as described*". To be considered as satisfactory, the CRA says the goods need to meet the standard that a reasonable person would consider satisfactory, considering any description of the goods, the price and all the other relevant circumstances. The CRA also explains the durability of goods is part of satisfactory quality.

So, it seems likely that in a case involving a car, the other relevant circumstances a court would consider might include things like the age and mileage at the time of sale and the vehicle's history.

My starting point is that BHL supplied Mr B with a used car that had travelled 70,144 miles. With this in mind, I think it's fair to say that a reasonable person would expect the level of quality to be less than that of a brand-new car with lower mileage; and that there may be signs of wear and tear due to its usage.

From the information provided I think it's likely there was a fault with the car. Although I've seen no evidence of this, for example in the form of diagnostics or inspection reports, I'm persuaded by what Mr B has told our service. Having considered it's likely the car had developed a fault; I've considered whether it was of satisfactory quality at the time of supply.

Satisfactory quality

Mr B highlighted a number of issues he was having with his car, which suggested it may have been suffering from an electrical fault. Mr B believes it can't be proved or disproved that the problems were present when the car was supplied to him. However, he provided screen shots from different websites which refer to the electrical reliability being a weakness of the make and model of his car.

I've not seen any further evidence to support what Mr B has said so I don't consider that the car was faulty or developing a fault at the point it was supplied to him. I acknowledge from the screen shots provided there is some question around the electrical reliability of the car, but I don't consider that to be compelling enough for me to conclude that the car wasn't of satisfactory quality when it was supplied. I don't think it's reasonable to conclude that cars of the make and model of Mr B's are inherently faulty. I'd need to see evidence, for example in the form of an expert report or diagnostic confirming that the car has an electrical fault and that it was present when the car was supplied to Mr B.

I've considered that Mr B has had a trouble-free experience of the car for the first 18 months and travelled an additional 10,000 miles. I acknowledge what Mr B has said about an

average annual mileage being around 20,000, however, 10,000 miles in itself is not insignificant, and I think it's unlikely Mr B would have got the mileage that he did out of it if it was inherently faulty. This further persuades me that the car was in a satisfactory condition when he acquired it.

I recognise Mr B's strength of feeling about the electrical faults, however without the evidence to support what Mr B has said, although I think it's likely the car as a fault, I'm not persuaded that the car was of unsatisfactory quality when it was supplied to him.

End of contract charges

BHL has sent us confirmation that Mr B requested to voluntarily terminate (VT) his finance agreement. A VT instruction form dated 26 April 2023 confirms this. The terms of the agreement under the section '*your right to terminate this contract*' says that to end the agreement early, the car would need to be returned along with half the total amount payable under the agreement, which in Mr B's case was £4,076.60.

BHL confirmed that Mr B had made a total payment of £3,283.27 (this included Mr B's deposit and payments made to date). So, this meant there was an outstanding balance of £793.33, which is the amount confirmed in the VT documentation, sent to Mr B.

In addition, in a letter dated 6 June 2023, sent to Mr B about the termination of his agreement, BHL confirmed that when arranging the collection of the vehicle there could be a charge of up to £250 if an alternative collection has to be arranged. BHL explained that this is in the instance of the car not being roadworthy.

Mr B believes the above charges should be waived in lieu of the distress and inconvenience he's experienced. I acknowledge what Mr B has said here and why, however I think the above charges are fair and reasonable in the circumstances, as explained in the terms and conditions of the agreement.

However, as I've concluded the car was of satisfactory quality at the point it was supplied and that BHL have acted fairly throughout the circumstances of this complaint. I'm satisfied that it is fair and reasonable for them to apply the above end of contract charges. And so, I don't require BHL to take any action in respect of this complaint.

My final decision

Having thought about everything above along with what is fair and reasonable in the circumstances, for the reasons given, I don't uphold Mr B's complaint against Black Horse Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 25 November 2023.

Benjamin John
Ombudsman