

The complaint

Mr C complains that a car acquired with finance from Black Horse Finance Limited wasn't of satisfactory quality.

What happened

In April 2018 Mr C was supplied with a van and entered into a hire purchase agreement with Black Horse. At the point of supply the van was around 7 months old and had covered around 2,200 miles.

In December 2022 Mr C experienced blue smoke coming out of the exhaust. The van was recovered to the supplying dealer who carried out a diagnostic and found that the oil level was too high and that fault codes showed the van had run on its own oil. The dealership advised Mr C that he would probably need a new engine.

Mr C raised a complaint with Black Horse asking it to repair or replace the van. Black Horse didn't uphold the complaint. It said that the supplying dealer had confirmed that the van had a 5 litre overfill of oil. It also said that Mr C had covered around 67,800 miles in the car since the point of supply which showed that the van was fit for purpose at the point of supply.

Mr C remained unhappy and complained to this service.

Our investigator didn't uphold the complaint. She said there was no evidence to suggest that the problems with the car were present or developing when the car was supplied.

Mr C didn't agree. He said he was still within the term of the finance agreement, and he thought the van should be fit for purpose throughout the agreement. He said he'd spoken to a mechanic, and he believed that the problem was caused by a known fault with the injectors over fuelling and oil being sent into the engine.

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 Supply of Goods Act 1973 is relevant to this complaint because Mr C entered into the hire purchase agreement for business purposes. The amount of credit provided was less than £25,000 so I'm satisfied that the agreement was a regulated agreement.

The Supply of Goods Act implies a term into the agreement that the van is of satisfactory quality when supplied. A van is of satisfactory quality if it is 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 van was relatively new when it was supplied so whilst I'd expect it to have some wear and tear, I'd also expect it to be fault free for a reasonable period of time.

I've looked at the available evidence about the problems Mr C experienced with the van.

Based on what I've seen, I'm satisfied that there's a fault. I say this because the information from the supplying dealership states that the oil level was too high, and 5 litres had to be removed before the van would start. The diagnostic test showed fault codes which suggested that the van had run on its own oil.

I've gone on to consider whether the van was of satisfactory quality when it was supplied.

I've reviewed the MOT and service history. I haven't seen anything in that information to suggest that there were problems with the van until the service which was carried out in August 2022. At that service it was noted that an engine warning light was displayed which would require further investigation. I haven't seen anything to suggest that Mr C took steps to have this investigated further. The problem with the blue smoke coming out of the exhaust occurred around 4 months after later.

I've taken the age and mileage of the car into account here. The van was around 7 months old when it was supplied to Mr C and had covered around 2,200 miles. At the time when Mr C experienced problems with the blue smoke, the van had covered around 65,600 miles. I think this is relevant, because if there had been a fault with the engine or the oil at the point of supply, I don't think Mr C would have been able to drive the car for around 4 ½ years and cover around 65,000 miles. I think the fault would have presented itself well before this time and mileage had elapsed. This suggests that the van was of satisfactory quality when it was supplied.

Mr C has said that he thinks the van should remain of satisfactory quality for the duration of the finance agreement. However, as I've explained, this isn't what the relevant legislation says. The legislation says that the van must be of satisfactory quality when it is supplied. It's reasonable to expect that the van would suffer wear and tear and require repairs and maintenance as it gets older.

Mr C has also said that he believed the van has a known fault with the injectors. I haven't seen any evidence to suggest that there's a fault with the injectors. The information from the supplying dealership who looked at the van suggests that the problem has been caused by an overfill of oil.

Taking all the available evidence into consideration, I'm not persuaded that there is any evidence to suggest that the van wasn't of satisfactory quality at the point of supply. Therefore, 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 Mr C to accept or reject my decision before 8 November 2023.

Emma Davy
Ombudsman