

The complaint

Miss F complains about a car she purchased under a hire purchase agreement (“agreement”) with Black Horse Limited (“Black Horse”).

What happened

In July 2021 Miss F purchased a used car costing £21,250.00, a 24 month warranty costing £899.00 and 24 months breakdown cover costing £99.00. Under the terms of the agreement, everything else being equal, Miss F undertook to pay a deposit of £3,257.94 followed by 48 monthly payments of £383.07 followed by 1 monthly payment of £8,054.00 making a total repayable of £29,699.30 at an APR of 13.9%.

In February 2023 Miss F says she started to hear an engine knock.

In February 2023 Miss F had the car looked at by a garage who suspected the top end had been starved of oil and a new engine and turbo were required.

In February 2023 Miss F had the car looked at by another garage who suspected the engine had been deprived of oil due to a blocked oil pump.

In February 2023 Miss F complained to Black Horse about the quality of the car she had purchased and that the car had been sold to her as coming with a full service history, not a partial one.

In March 2023 Black Horse issued Miss F with a final response letter (“FRL”). Under cover of this FRL Black Horse said it wasn’t upholding Miss F’s complaint that she had been supplied with a car that was of unsatisfactory quality or that the car was sold to her as coming with a full service history.

Miss F’s complaint was considered by one of our investigators who came to the view that it shouldn’t be upheld.

Miss F didn’t agree and so her 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.

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.

I would like to make clear that I'm only considering in this decision Miss F's complaint against Black Horse that the car she acquired was of unsatisfactory quality and that it was sold with a full service history, not any other complaint she might have against Black Horse or any complaint she might have against one or more third parties.

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

The agreement in this case is a regulated one. As such, this service is able to consider complaints relating to it. Black Horse 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.

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.

It's not in dispute the car currently has a fault that will cost a substantial amount of money to repair. But I'm not persuaded that this fault was present or developing at the point of supply. I say this because of:

- the age of the car at the time of purchase (four and half years old)
- the recorded mileage at the time of purchase (circa 49,500)
- how long Miss F had been in possession of the car before the engine knock started (circa 18 months)
- the number of miles Miss F was able to add the car's odometer between the date of sale and the date the engine knock started (circa 16,500)
- the services undertaken (or not undertaken) on the car
- the lack of documentary evidence confirming the current fault was present, or developing, at the point of supply

I will now address Miss F's complaint that the car was sold to her as coming with a complete service history.

I don't underestimate Miss F's strength of feeling on this particular point but on the balance of probabilities I'm not persuaded she was misled on this point as she submits.

I accept that Miss F was told, and provided with evidence in support, that the car was serviced in December 2016 [at 8 miles], in October 2018 [at 20,683 miles] and in June 2021 (by supplying dealership prior to sale to Miss F) [at 49,406 miles]. But this doesn't constitute a full service history. This is because Miss F's car requires servicing every 21,000 miles or every two years (whatever occurs first). So this means the car should have been serviced at circa 42,000 miles, or in October 2020, but wasn't. And this is something I might have expected Miss F to have realised. I would also add that it's not being suggested that the services undertaken were partial (rather than full) but the car has a partial service history (rather than a full one) due to no service being undertaken at circa 42,000 miles or in October 2020.

Black Horse has provided what it says is an extract of the original car advert stating the car comes with a partial service history. On the other hand, Miss F has provided what she says is the original car advert (in its entirety) making no reference to a service history. But even if I was to discount what Black Horse has provided the advert provided by Miss F, although making no reference to a partial service history, makes no reference to a full service history.

I appreciate Miss F will be disappointed, but in summary I'm not persuaded she was supplied with a car that was of unsatisfactory quality or that she was advised the car came with a full service history.

My final decision

My final decision is I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss F to accept or reject my decision before 18 November 2023.

Peter Cook
Ombudsman