

## **The complaint**

Mr D complains about the quality of a car he got on finance from Black Horse Limited trading as Land Rover Financial Services ('BH').

## **What happened**

The parties are familiar with the background details of this complaint – so I will briefly summarise them here. It reflects my informal remit.

In July 2021 BH supplied Mr D with a car on hire purchase. However, he says he had problems with it, most notably in June 2023 when the car started to handle roughly and warnings showed on the dashboard. He says he has since found out the car needs a new engine and turbo at considerable cost.

BH says it was unwilling to cover the cost of these issues because there was not sufficient evidence that the car was of unsatisfactory quality at the point of supply.

Mr D brought his complaint about BH's handling of the matter to this service but our investigator didn't uphold it.

Mr D has asked for an ombudsman to look at things for a final decision. In summary, he says that he couldn't have done anything to cause the engine to fail, and had the car serviced. He doesn't think the car should have failed when it did.

## **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.

While I might not comment on everything (only what I consider key) this is not meant as a discourtesy to either party – it reflects my role resolving disputes informally.

In considering what is fair and reasonable, I need to have regard to 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.

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

The Consumer Rights Act 2015 is of particular relevance to this complaint. It says that under a contract to supply goods, there is an implied term that "the quality of the goods is satisfactory".

The Consumer Rights Act 2015 says the quality of goods are satisfactory if they meet the standard that a reasonable person would consider satisfactory taking into account 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 take into

account might include things like the age and mileage at the time of sale and the vehicle's history.

The Consumer Rights Act 2015 says the quality of the goods includes their general state and condition and other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability can be aspects of the quality of goods.

BH supplied Mr D with a second-hand car that was around 3 years old and had done 45,695 miles at the point of supply. The dealer priced it at less than what a new or newer model with less mileage would cost as a result. It is fair to say that in these circumstances a reasonable person would consider that the car had already suffered some notable wear and tear – and was likely to require more maintenance and repairs than you might see on a newer, less road worn model.

I note previous to the recent failure Mr D had some other issues with the car – but these don't appear to be the main matters contention here. However, for completeness the only prior issue that appears to have clearly been an inherent fault as opposed to general wear and tear/maintenance was an issue with an alarm sensor that happened shortly after the sale of the finance and a repair was conducted at no further cost to Mr D (and compensation paid of £100 by BH). This seems reasonable and there is no persuasive evidence that the other historic issues rendered the car of unsatisfactory quality in the circumstances here.

The main matter in contention (and that which my decision centres on) is the significant component failure of the turbo and engine – which will be a costly repair. I appreciate Mr D and BH have opposite views as to who is liable for this. And that Mr D is looking to this service to resolve things. However, I don't think this is a straightforward case of clearly inherent faults particularly because:

- the issue occurred around two years after the point of supply and after the car had travelled in excess of 30,000 miles while in Mr D's possession (bringing the total mileage of the car closer to 80,000 at the time of failure);
- Mr D indicates that when the car failed a critically low oil warning light was showing;
- BH's contact notes say the main dealer inspected the car and was of the view the issue was not an inherent fault with the engine and that an overdue service could have contributed to the issues experienced; and
- there is a lack of a clear connection between previously reported issues with the car (like the alarm sensor and driver's window) and the subsequent failure. And while I do note the car previously went to the garage due to Mr D reporting it feeling sluggish, this was well before the engine failure occurred, was diagnosed as something else and seemed a resolved wear and tear related issue (as the car covered considerable mileage since).

A key factor here is the lack of persuasive and independent expert evidence to determine what has caused the recent engine and turbo failure. Whether that be as Mr D says an inherent fault/lack of durability or some other variable related to wear/particular usage.

Because of how long the car has been in Mr D's possession and because of the mileage he has covered in it since sale, and the total mileage the car has covered I don't consider it unreasonable in the particular circumstances here that BH said it was for Mr D to provide further expert evidence to show the components in question were likely inherently faulty when supplied.

All things considered; when Mr D approached BH with problems with the car (and keeping in mind the factors I have mentioned above) I don't think there was clear and persuasive evidence available to it that the car it supplied was of unsatisfactory quality. Nor do I think

BH was acting unfairly in the circumstances in asking Mr D to provide further independent expert evidence to support his case before it would do anything more.

I know Mr D will be disappointed by my decision. I remind him my role is to look at things informally. He is free to reject my decision and may wish to pursue matters via a more formal route such as court.

**My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 15 August 2024.

Mark Lancod  
**Ombudsman**