

The complaint

Mr D complains that a used car supplied by Blue Motor Finance Ltd (BMF) under a hire purchase agreement (HPA) is of unsatisfactory quality.

What happened

Mr D got the car in January 2021. He had problems a month or so later and contacted the supplying dealer after an engine management light (EML) illuminated. The dealer suggested Mr D should take the car to a local garage to see if the problem could be identified. Mr D took the car to a third party garage (TPG) in March and he was told the diesel particulate filter ("DPF"), a differential pressure sensor and oil filters needed servicing. The dealer refunded the cost of the check but didn't agree to pay for repairs and Mr D complained to BMF.

Mr D had problems with the media unit as well around the same time and he decided to have the car checked by a main dealer for the brand. A vehicle health check (VHC) was carried out in early April 2021 and found brake pads and discs were worn, a tyre needed replacing and coins had been inserted into the media unit so the head unit needed replacing. Mr D paid for the TPG for repairs that cost over £400 and he paid another third party £120 to fix the media unit.

BMF didn't uphold Mr D's complaint. It said the dealer had already refunded the cost of repairs, aside from the media unit - and there's no evidence this was faulty at the point of supply. BMF thought the repairs the dealer paid for were likely wear and tear related, in any event. And this means they'd be Mr D's responsibility under the HPA - taking into account the car's age and mileage when it was supplied and the use he had of the vehicle.

BMF didn't think it should have to do anything else and Mr D referred the matter to our service. He acknowledged the dealer had provided a refund but felt it was unfair he had to pay for repairs to the media unit. He lost faith in the car and wanted to reject it initially but he's since settled the finance and sold the vehicle.

Our investigator was satisfied (from the TPG's findings and the VHC) that Mr D had a number of problems with the car in March and April 2021 after around 2,000 miles of use. He thought issues found - with the DPF, differential sensor, brake pads and discs, oil filters and one tyre - were probably wear and tear related. He wasn't persuaded it would be fair to hold BMF responsible for those - given the car's age and mileage and distance covered after supply. And he was satisfied the dealer had already refunded the relevant cost anyway.

The investigator thought it was likely however that the media unit had something wrong with it when the car was supplied. He noted Mr D's recollection is the problem started less than a month after supply but this was first documented at the VHC in April 2021. He acknowledged the media unit may have worked for a short time after supply. But, he was satisfied (from a video Mr D provided) that one of the coins found inside hasn't been in circulation for some time. He thought the most likely explanation for this is the coins were inserted before Mr D got the car. And he wasn't persuaded that BMF had done enough to show the media unit wasn't faulty at the outset.

The investigator was satisfied that Mr D paid £120 for repairs to the media unit in May 2021 and he found it was fair for BMF to refund this. He thought the presence of the faulty media unit probably impaired Mr D's use of the car (albeit this didn't prevent him from driving it). And he recommended BMF should refund 10% of monthly payments made between the VHC on 8 April 2021 and repairs on 4 May 2021, to reflect that.

Mr D said the repairs undertaken for £120 didn't work and it actually cost him about £1,200 to fix the media unit. The investigator asked for more evidence that this cost was incurred but Mr D was unable to provide that. The investigator didn't think he couldn't reasonably ask BMF to pay more for repairs without documentary evidence. He didn't change his original view and Mr D accepted those recommendations.

BMF agreed to the recommended refund of monthly payments for impaired use but not for repairs to the media unit. BMF said it's reasonable to assume this unit would not have worked at the outset - if coins were pushed in by a previous owner. But Mr D said he *started* experiencing problems with the unit in March 2021 – which suggests it was working up to that point and it wasn't faulty at the point of supply. BMF asked for an ombudsman to review the matter.

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.

Mr D brings his complaint to our service because he acquired this car under a HPA. And I'm satisfied that BMF was required under the Consumer Rights Act 2015 (CRA) to ensure (amongst other things) that the car was of satisfactory quality at the point of supply.

What amounts to "satisfactory" quality will vary depending on individual circumstances. In the case of a used car, I think it's reasonable to take the age, cost and mileage into account. This car was seven years old, cost £10,700 and had 54,000 miles on the clock when it was supplied. As such, I think a reasonable person would accept some parts would be worn and likely need to be repaired or replaced sooner or later – which is reflected in the lower price paid for a used car compared to the price of a brand new vehicle.

Mr D seems to have been refunded for the cost of repairs to the DPF and other parts - aside from the media unit. He has accepted the investigator's recommended outcome. And BMF has agreed to provide the refund for impaired use that the investigator recommended. So, I'm satisfied the only outstanding issue for me to determine is whether BMF should refund the cost of repairs to the media unit.

The CRA says (broadly speaking) any fault which appears within six months of supply is deemed to have been present at the point of supply - unless there's evidence to the contrary. I appreciate BMF says the unit worked for a few months so it couldn't have been faulty at the outset. But, I don't think it's that straightforward and I'll explain why.

I'm satisfied – based on the VHC – that there was a problem with the media unit a few months after supply which seems to have been caused by several coins being inserted into the unit itself. I can't be *certain* when or how this took place. And, where evidence is unclear like this, I reach my decision on the balance of probabilities - what I consider is most likely to have happened in the light of the available evidence and the wider circumstances.

Mr D told us he didn't put these coins in - and he hasn't had anyone in the car (such as a small child) who might have done so. I have no reason to disbelieve Mr D. And, given at least one of the coins found in the unit hasn't been in circulation for some time, I think it's

more likely than not this was already in there when Mr D got the car.

I can't be sure why the unit seems to have been able to operate for a while after supply and then stopped working. It's possible the coins were stuck and dislodged after Mr D got the car - or they simply worked their way further in over time. Ultimately, I'm satisfied Mr D had a reasonable expectation that this media unit would work properly for much longer than it did. I think it stopped working due to the presence of foreign objects that were probably there when he got the car and it was of unsatisfactory quality at the outset.

Putting things right

Under the CRA a supplier would generally have the opportunity to fix something like this, in this situation. But, Mr D has already paid for repairs here and sold the car. I don't think it's fair that Mr D should be out of pocket as a result of being supplied with a car that had faults present. I've seen an invoice he supplied for repairs to the media unit costing £120. And I find it fair that BMF should refund this amount plus interest.

BMF has accepted the investigator's recommendation in respect of the refund for impaired use. And Mr E has confirmed he accepts the investigator's recommended outcome. I think that seems fair and reasonable overall and I can't reasonably require BMF to do more.

My final decision

For the reasons set out, my decision is I uphold this complaint and I require Blue Motor Finance Limited to:-

1. refund £120 for repairs to the media unit plus 10% of finance payments made between 8 April and 4 May 2021; and
2. pay interest on the above refunds at 8% simple a year from the date of payment to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 19 August 2022.

Claire Jackson
Ombudsman