

The complaint

Miss C complains that a car acquired with finance from Blue Motor Finance Ltd (BMF) wasn't of satisfactory quality.

What happened

In November 2019 Miss C was supplied with a car and entered into a hire purchase agreement with BMF. At the point of supply the car was around 6 years old and had covered around 24,700 miles.

Miss C says that before she purchased the car, the supplying dealer advised her that there was a knocking noise which would be repaired. Miss C provided with the purchase but when she collected the car from the supplying dealer the knocking noise was still there.

Miss C took the car to her local garage, who advised her to take the car back to the supplying dealer.

The supplying dealer carried out repairs to the suspension. Miss C collected the car but didn't drive it for around 5 months because she was shielding during the pandemic.

In September 2020 Miss C started to drive the car again and noticed that the knocking noise was still there. She contacted the supplying dealer to try and get it repaired, but the supplying dealer said that because more than 6 months had passed since the point of supply, it wouldn't cover the cost of repairs.

Miss C complained to BMF. It arranged an independent inspection. The inspector identified that the engine undertray was missing and that the nearside lower suspension arm unit and anti-roll bar link arm had been replaced. The inspector also found that the offside front coil spring was loose and that the car made a knocking noise when driven. The inspector concluded that the front suspension was noisy but that the fault wasn't likely to have been present at the point of supply because it was so loud that it would have been noticeable.

Based on the findings of the report, BMF didn't uphold Miss C's complaint. Miss C remained unhappy and brought her complaint to this service.

Our investigator upheld the complaint. He thought there was a fault present at the point of supply and that the supplying dealers attempt at repair had been unsuccessful. The investigator said that Miss C should be allowed to reject the car.

BMF didn't agree. It said it had spoken to the supplying dealer, who denied carrying out any repairs prior to the point of supply. It told BMF that the first time Miss C had contacted it about the knocking noise was March 2020, and that it had carried out repairs in April 2020. BMF said that Miss C hadn't contacted the supplying dealer again until September 2020 and that the noise she had reported at that time related to a different part of the car, and felt that the repairs carried out by the supplying dealer in April 2020 had been successful.

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 Consumer Rights Act 2015 is relevant to this complaint. It says that goods must be of satisfactory quality when supplied. Cars are of satisfactory quality if they are 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. I would expect a second hand car, such as that supplied to Miss C, to have a degree of wear and tear and to require repairs more often than a brand new car. So, in order to uphold this complaint, I would need to be satisfied that the car had a fault at the point of supply, as opposed to a fault which developed due to wear and tear.

Under the Consumer Rights Act 2015, where a fault occurs in the first 6 months, there's a presumption that the fault was present at the point of supply and it's up to the business to put things right. The business is allowed one opportunity to repair the car. If the repair isn't successful, the consumer can reject the car. After 6 months, the burden of proof is reversed and it's up to the consumer to show that the car wasn't of satisfactory quality when supplied.

An independent inspection can help determine whether a car is of satisfactory quality. I've looked at the independent report which was undertaken in October 2020. This says that the nearside lower suspension arm and anti-roll bar link arm have been replaced. It also says that the offside front coil spring was loose and knocking at the top of the mounting block. The report also says that there was a heavy metallic knocking noise when the car was driven, which the inspector said was coming from the suspension top mounting. The inspector said that in his opinion, the suspension mount displacement would constitute an MOT failure and concluded that the fault would've occurred after that date of the last MOT in November 2019. The inspector said he didn't think the current noise would have been present at the point of supply because it was so audible.

At around the same time as the car was independently inspected, Miss C also asked her local garage to look at the car. Its report says that the knocking noise was caused by the same issue that it had diagnosed previously in December 2019, prior to the repairs that were carried out by the supplying dealer.

I've taken both reports into consideration. Based on what I've seen, I'm persuaded that there's a fault with the car because this has been identified by both reports. I'm also persuaded that a fault was present in April 2020, because the supplying dealer carried out repairs to the suspension at this time.

Because there was a fault with the suspension which occurred in the first 6 months, there's a presumption that it was present at the point of supply. So, I think it was right that the supplying dealer carried out repairs in April 2020, because this is what the relevant legislation requires it to do.

The real issue here is whether the repairs carried out by the supplying dealer were successful. BMF has said that because Miss C didn't report any further issues until September 2020, the supplying dealers' repairs were successful. However, Miss C has said that she didn't drive the car between April and September 2020 because she was shielding.

The mileage of the car at the point of supply was 24,721. I can see that when the car was inspected in October 2020, the mileage was 29,082. The supplying dealer didn't record the mileage when it carried out repairs in April 2020. So, I can't be certain of whether the car was driven in the 5 months between April – September 2020 after the repairs were carried

out. Based on the fact that Miss C covered just over 4000 miles in 11 months, I'm inclined to accept her evidence that she didn't use the car when she was shielding. So, I don't think it's possible for BMF to say that the repairs carried out in April 2020 were successful. Miss C has been clear about the fact that when she started using the car again in September 2020 the knocking noise was still there. On balance, it seems more likely than not that the repairs weren't successful. Under the relevant legislation, Miss C should be allowed to reject the car.

Putting things right

To put things right, BMF should allow Miss C to reject the car. I won't be asking BMF to refund Miss C's monthly payments because she's been able to use the car, save for the time when she was shielding which was her choice. Nor will I be asking BMF to refund the deposit allowance, because I can see that this was used to settle the finance on Miss C's previous car.

It's clear that Miss C has suffered a degree of distress and inconvenience as a result of being supplied with a car which wasn't of satisfactory quality. She's had to make the car available for inspection more than once and has spent time trying to resolve things. I'm asking BMF to pay compensation to Miss C to reflect this.

My final decision

My final decision is that I uphold the complaint. Blue Motor Finance Ltd must:

End the agreement with nothing further to pay

Arrange for the car to be collected at no cost to Miss C

Pay £150 to Miss C for distress and inconvenience

Remove any adverse information relating to the agreement from Miss C's credit file

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 28 March 2022.

Emma Davy
Ombudsman