

The complaint

Mr D complains about the compensation paid by Blue Motor Finance Ltd (“Blue Motor”) when they processed a rejection of his car.

What happened

Mr D acquired a car via a hire purchase agreement with Blue Motor in February 2022. He had some issues with the car almost from the start, and these were raised with the dealership who had brokered his finance agreement, and they attempted some repairs.

When he continued to have problems, Mr D raised a complaint with Blue Motor. This was in April 2022. After consulting with the dealership about the background to the issues, Blue Motor instructed an independent report to be carried out. This was received in late May 2022 and said that the car had major issues.

Blue Motor discussed this further with the dealership and issued a final response letter (FRL) to Mr D in July 2022, agreeing that he could reject the vehicle. They returned his deposit, along with two of the four monthly payments he had made. They said that as the vehicle had covered around 1,500 miles since it was acquired, they felt Mr D had some use of it, and therefore they retained two monthly payments as a charge for his usage of the car. They also offered him £75 for the distress and inconvenience.

Unhappy with this financial offer, Mr D proceeded to reject the car, but brought his complaint about the redress offered to our service.

Initially the investigator here didn’t uphold the case and said that what Blue Motor had offered was fair. Mr D then came back to the investigator with evidence of some repair/diagnostic costs he had paid for in April 2022, just before raising his complaint with Blue Motor. The investigator agreed it would be fair for Blue Motor to reimburse this cost of £264.

Mr D still didn’t feel this was fair and asked for an Ombudsman to make a final decision. He said that £75 was not a fair amount to recognise his distress and inconvenience and felt he should get all of his monthly payments back, as well as compensation for taking unpaid leave to allow the independent report to be done. He also mentioned the insurance costs, and said that the dealership had added a large amount of the mileage in driving the car to and from different garages to try to diagnose or fix the issues, so this shouldn’t be considered as his usage.

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.

Having done so, I’ve reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven’t commented on any specific point, it’s because I don’t believe it’s affected what I think is the right outcome.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Mr D was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we're able to investigate complaints about it.

Firstly, I'm sorry to hear about the problems Mr D had with his car, but glad that he was able to get an agreement with Blue Motor that the car should be rejected. Both parties have agreed this was the right course of action, so I won't be considering the decision to reject the car here.

What I will focus on are the areas of disagreement. These are around the financial package offered to Mr D as part of the rejection.

Firstly, I'll look at the offer to refund two of the monthly payments out of the four payments made. The Consumer Rights Act 2015 (CRA) explains that Blue Motor has the right to make a charge for usage of the car when a rejection occurs. The CRA says:

"If the consumer exercises the final right to reject, any refund to the consumer may be reduced by a deduction for use, to take account of the use the consumer has had of the goods in the period since they were delivered"

In this case, Blue Motor have said that they have kept two monthly payments out of four payments made, to recognise the use Mr D has had of the vehicle, which amounted to around 1,500 miles. Mr D has said that some of this mileage was the dealership taking the car to other garages. I accept that this was the case, although there is some dispute about how many of the miles were covered in these trips.

Fundamentally, during this period, the car was still usable, and Mr D had use of it. It's also been made clear that at certain points when diagnostics or repairs were being undertaken, Mr D was provided with a courtesy car to keep him mobile.

There isn't a specific calculation I can use here to decide how much is fair to retain for usage, but I'm satisfied that retaining half the payments feels fair. Mr D has had periods when the car was being used, and he was using it. At other points when the car was in the garage, he has had a courtesy car. And later on, when it became apparent the car was not of satisfactory quality, I think it's fair for Blue Motor to have refunded some monthly payments to recognise this. I am satisfied that refunding 50% of payments was fair and won't be asking Blue Motor to do any more here.

With regards to distress and inconvenience, Mr D has said it took Blue Motor too long to resolve things which caused him more inconvenience and upset. I've looked at the timeline and am satisfied that Blue Motor have dealt with things in an acceptable timeframe. His complaint was raised with them on 12 April 2022, after some investigation they requested an independent report be carried out which was arranged for 30 May 2022, and the FRL was issued on 8 July 2022. I accept that this could have been quicker, but I can also see that Mr D had acquired another car during this period. Based on the insurance information he's provided, this happened in June 2022, and he has had two monthly payments refunded which recognises a period where the car wasn't being used potentially due to the problems.

I'm sorry to hear that Mr D was suffering with anxiety in October 2022, but I'm not persuaded that the circumstances of this complaint warrant a larger payment for the distress and inconvenience than the £75 offered. Looking at the overall compensation offered, I think Blue Motor have done what I'd expect to see here, so I won't be asking them to pay any further distress and inconvenience.

Mr D did however provide evidence of a garage bill for £264, for diagnostics of the problems just before he raised the complaint with Blue Motor. I do think this was a reasonable thing to do, to try to get the information about what was wrong with the car, when he was struggling to get to the bottom of this was the dealership. I agree with the investigator here, that Mr D should be refunded this amount, plus interest from the time he had to pay it.

I'm not persuaded that any other costs Mr D feels he should be compensated for are fair. The car would need to be kept insured, as that forms part of his contract until Blue Motor agreed the rejection. The evidence Mr D has provided shows he has switched the insurance over onto a new car in June 2022, before Blue Motor issued their FRL and processed the rejection. Based on the evidence supplied, I'm not persuaded he should receive any refund here.

The final thing Mr D has raised is the time he took off work to allow the car to be inspected for the independent report. Mr D has quoted a figure of £94, but this isn't something that we would compensate in this way. I appreciate that having to stay home for the engineer to come and do the report caused some inconvenience, so I have considered this overall in the award made to Mr D.

But as one person's free time isn't worth more than another's, we won't usually make a specific award for someone's time, or calculate it using a set amount, like £x an hour. I've considered this in relation to the overall award made to Mr D, considering the amount of inconvenience he may have experienced spending time dealing with this matter. I'm satisfied that he has been compensated fairly, and I won't be asking Blue Motor to do any more here.

Putting things right

I instruct Blue Motor Finance Ltd to pay Mr D £264 for the garage bill he paid on 11 April 2022 to help diagnose the car's problems. They should also apply 8% simple yearly interest on this refund, calculated from the date Mr D made the payment to the date of the refund.

If Blue Motor Finance Ltd considers that it's required by HM Revenue & Customs to withhold income tax from the interest part of my award, it should tell Mr D how much it's taken off. It should also give Mr D a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

I am partly upholding this complaint and instruct Blue Motor Finance Ltd to undertake the action explained above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 13 April 2023.

Paul Cronin
Ombudsman