

The complaint

Miss M complains that the car she acquired through a hire purchase agreement with Blue Motor Finance Ltd wasn't of satisfactory quality.

What happened

Miss M entered into a hire purchase agreement with Blue Motor Finance on 7 February 2022 to acquire a used car. On 9 February she says she noticed issues with the car and the car was booked in with the dealership on 15 February. Miss M says that at this time she had raised issues with the tyres being bald, no valid MOT, worn rear brakes, speakers being blown, a dent in the roof and a loud rattling sound coming from the steering. The tyres were replaced, and an MOT took place. Miss M says she then contacted the dealership on 18 February to say there were still issues. Miss M then took the car for an inspection and further issues were identified.

Miss M says that the dealership initially said the issues would be fixed but then went back on this and limited the issues it would look to repair. She says the dealership offered to sell the car on her behalf but that this would result in her losing money. Miss M said given the issues with the car arose within the first 30 days and the dealership had a chance to fix these on 15 February but the problems remain, she should now be allowed to reject the car.

Blue Motor Finance issued a final response letter in May 2022. It said that Miss M raised her complaint outside the first 30 days of the agreement, so she didn't have the right to reject the vehicle. Instead, it said if it was liable for the issues raised it would have a first right of repair. It said it would need to inspect the reason for the speaker failure, the issue with boot and the reason for the rattling noise to establish if it was liable. It didn't accept it was liable for the dent on the roof as the vehicle was sold as seen and said the tyres weren't faulty.

Miss M referred her complaint to the Financial Ombudsman Service. Our investigator upheld the complaint. They didn't think the car was of satisfactory quality at the point it was supplied, and thought it was sold with several defects. They were satisfied that the car had been presented to the dealership who had the opportunity to carry out repairs, but the car was still presenting issues. Because of this they thought it fair that Miss M be allowed to reject the car and have a portion of her repayments refunded to reflect the impaired use she had experienced.

Blue Motor Finance didn't agree with our investigator's view. It said the dealership had advised Miss M didn't make contact to arrange an inspection and that the car was sold without faults. The dealership said it offered a free one-year MOT for every customer if the car had less than six months valid MOT at point of sale and this was carried out on the 15 February where no faults were identified and with no complaints from the customer.

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.

Miss M acquired a car through a hire purchase agreement dated 7 February 2022. Under the regulations, specifically the Consumer Rights Act 2015, the car needed to be of satisfactory quality at the point of supply. Satisfactory quality takes into account relevant factors such as the age and mileage of the car. In this case the car was around five years old and had been driven around 32,600 miles at the point of acquisition.

As the car wasn't new at acquisition some wear and tear would be expected. However, noting the age, mileage and the amount paid for the car, I can understand why Miss M was upset by the number of issues she experienced.

Miss M has provided evidence that she reported several issues with the car to the dealership. She says that she initially raised the issues on calls with the dealership in February and has provided telephone bills to evidence these. She then communicated by phone messaging. On a message dated 21 March 2022, issues were raised about the dent in the roof, a fault with the oil light, the speakers being faulty, a rattling noise and noting that the tyres were bald when the car was supplied, and the replacements provided on 15 February were the wrong size. Miss M has provided a copy of a report from another garage dated 19 February showing that after a wheel alignment the car was still pulling to the left and it was thought there might be an issue with the car's suspension. A further inspection report was undertaken on 21 April 2022 which reported rattling from the steering wheel, the boot opening by itself, the car veering to the left and the oil sensor light coming (although this was resolved at the time, Miss M says the issue has since returned).

Given the evidence provided about the problems with the car and the timing of the issues raised, I find it reasonable to accept that there were faults with the car that were present at the point of supply. Considering the number and type of issues raised I do not find that the car was of satisfactory quality at the point of supply.

The outstanding issue is whether Miss M should be allowed to reject the car or whether the dealership should be allowed the opportunity to investigate and carry out any necessary repairs. The information provided in this case is at times incomplete and contradictory and so I have made my decision based on the balance of probabilities, that is what I consider most likely to have happened given the evidence provided and the wider circumstances.

Under the Consumer Rights Act 2015, a consumer has a 30 day right to reject a car that's of unsatisfactory quality. Blue Motor Finance say that Miss M raised her complaint after 30 days and so the dealership should be allowed a chance to repair the issues. I have considered the timeline of events and note that Miss M has said she asked to return the car on 25 February, but the dealership didn't accept this. I do not have further evidence of this but as conversations were taking place in February I do not find it unreasonable to accept that Miss M may have asked about returning the car at that time.

That said, even if Miss M didn't formally ask to reject her car within the first 30 days, I still find, in this case, this is the fairest outcome. I say this because the car was returned to the dealership on 15 February. I note the dealership's comments that the car was sold with an MOT but as this was less than six-months it offered a full MOT and that this took place without issues being raised. However, given the issue identified, Miss M's testimony about the events and that Miss M took the car to another garage on 19 February I find it reasonable to accept that Miss M had identified issues with the car before its return on 15 February and that these were raised with the dealership. While I accept further issues were then identified, I find that the dealership did have the opportunity to remedy the initial issues and carry out any required investigation when the car was returned in February. However, at this time, the tyres were changed and replaced with incorrect tyres and the MOT took place, but the other issues weren't addressed.

During March and April discussions continued with the dealership and Miss M has said that while the dealership initially said all issues would be fixed but then changed its mind. I can see the dealership didn't accept that the dent needed to be fixed as the car was sold as seen and it also didn't initially agree to inspect the issues with the speakers. Having considered the communication between the parties at the time I can understand why Miss M felt that the dealership wasn't offering a full inspection of the issues.

On balance, while I note the comments the dealership has made about the car not being returned for inspection, in this case I find there was an opportunity for repair provided on 15 February. Given the issues identified by Miss M, the response from the dealership and the ongoing discussions that took I can understand why Miss M lost faith in the dealership carrying out the required repairs. Taking this into account and noting the issues were identified within the first 30 days and that Miss M has said she asked to return the car at that time, I find the fairest outcome to this complaint is for Miss M to be allowed to reject the car.

Miss M had been able to drive the car but given the issues she has experienced she has said she hasn't felt safe. I can understand that the issues will have reduced her enjoyment of the car. Therefore, while I find she is responsible for the repayments made to date, I find that a 10% refund should be applied to these to reflect her impaired use.

I also find that being supplied a car that wasn't of satisfactory quality has resulted in Miss M being caused distress and inconvenience as she has had to try to resolve issues with the dealership and Blue Motor Finance. Therefore, I agree with our investigator's recommendation that she should be paid £150 because of this.

Putting things right

As I do not find the car was of satisfactory quality, I find the fairest resolution in this case is for Miss M to be allowed to reject the car. Therefore, Blue Motor Finance should:

1. end the agreement with nothing further to pay;
2. collect the car (if this has not been done already) at no further cost to the customer;
3. refund the customer's total deposit paid;
4. refund 10% of Miss M's rental payments to reflect the concerns she has had while driving the car with inherent quality issues;
5. pay 8% simple yearly interest from the date of payment until the date of settlement on all refunded amounts*;
6. pay a further amount of £150 for any distress or inconvenience that's been caused due to the faulty goods; and
7. remove any adverse information from the customer's credit file in relation to the agreement.

*HM Revenue & Customs requires Blue Motor Finance to take off tax from this interest. Blue Motor Finance must give Miss M a certificate showing how much tax it's taken off if she asks for one.

My final decision

My final decision is that I uphold this complaint. Blue Motor Finance Ltd should take the

actions set out above in resolution of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 29 March 2023.

Jane Archer
Ombudsman