

The complaint

Mr E complains about the quality of a vehicle that was supplied to him under a hire purchase agreement with Blue Motor Finance Ltd ("Blue").

What happened

On 23 May 2022 Mr E took out a hire purchase agreement with Blue for a used vehicle. This vehicle was just over eight and a half years old, with a cash price of £11,995. The terms of the agreement required Mr E to pay 61 monthly instalments of approximately £260.

Mr E said he'd seen the vehicle advertised online. The descriptions in the advert included:

"Sunroof",

"Excellent condition for its age and mileage, hard to find a better example, very very light use",

"If items such as the tyres and wishbones are under 30% life we will replace for new."

"Excellent bodywork",

"Tyre condition excellent".

"If items such as the tyres... are under 30% life we will replace with new".

Mr E said he collected the vehicle four or five days later and discovered it wasn't as described in the advert. He says he called Blue as soon as they opened on the next working day, telling them he wanted to reject it.

On 31 May 2022 Mr E raised a formal complaint with Blue, again saying he wanted to reject the vehicle. He told them there was a squeak from the nearside front tyre, a squeaky clutch, the boot was leaking, the paintwork was scratched, and the gearbox felt loose.

At Blue's request, Mr E booked the vehicle in for a diagnostic inspection to confirm what faults were present. After receiving the diagnostic report, Blue issued Mr E with their final response. They said they'd dismissed the cosmetic issues because these would have been visible at the point of sale. They agreed that the diagnostic report showed there was an issue with the tyre and a window switch that needed replacing. But they said there was no evidence to suggest there were any mechanical issues, so there were no grounds for Mr E to reject the vehicle.

Unhappy with this response, Mr E brought his complaint to us. He said he'd thought he had a 14-day cooling-off period, but when he'd spoken to Blue about this, he'd got the impression he couldn't back out of the agreement because they'd already paid for the vehicle before he collected it.

Mr E told us that he'd discovered more faults with the vehicle after he'd first complained to Blue. He said it didn't have a sunroof, and three of the tyres were near the legal limit. He said he'd had to pay to have two corroded valves replaced for safety reasons, because they were stuck in place with the tyres under-inflated. He said the boot leaked and wouldn't close or lock in place. Mr E provided photos, showing damage to the bodywork that he hadn't seen in the photos in the advert.

Our investigator looked into what had happened. She said she didn't think the vehicle had been of satisfactory quality when it was supplied to Mr E due to the faults with the boot and passenger window. She thought Blue should arrange for these faults to be repaired. She also thought Blue should either arrange for the tyres to be replaced - or reimburse Mr E for this if he'd already paid for it to be done.

Mr E remained unhappy. He said he'd tried to return the vehicle by getting in touch with Blue the next working day after collecting it – and that he'd been in touch with them every few days since, trying to resolve things. He told us that he'd provided Blue with everything they'd requested from him, despite working very long hours and struggling with his mental health.

Mr E said that, for the last six months, he'd been paying for a vehicle that he hadn't been able to use in the way it was intended. He said he doesn't have the facility of a boot because it won't lock and everything gets wet when it rains - and that the window controls don't work. He said over time he'd found more issues with the vehicle that hadn't been obvious straight away, such as a leak coming either from the driver's door or windscreen when it rains. He said he'd only done between 1,000-1,500 miles in the vehicle due to the issues with it, instead of the 5,000 miles he would normally have covered in that time.

Mr E said he'd been caused a lot of stress whilst trying to get the problems sorted and would now be left with a vehicle he couldn't enjoy. He felt he wouldn't be able to sell or change it because it wasn't worth the amount Blue were expecting him to pay for it. He asked for an ombudsman to review things again.

My provisional decision

I issued a provisional decision, saying:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Mr E's complaint is about a vehicle supplied under a hire purchase agreement, so this service can consider complaints relating to it. Under this type of agreement, Blue is also the supplier of the vehicle and is therefore responsible for a complaint about its quality.

When considering what's fair and reasonable, I take into account relevant law and regulations. The Consumer Rights Act 2015 ("the CRA") is relevant to this complaint. It says every contract to supply goods is treated as having an implied term that the quality of the goods is satisfactory. It explains that the quality of goods includes their state and condition. It says things like fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability can be aspects of the quality of goods.

The standard that's applied is whether a reasonable person would consider the quality of the goods to be satisfactory, taking into account the way they were described, the price and all the other relevant circumstances. So, it seems likely that in a case involving a vehicle, the relevant circumstances a court would also take into account might include things like its age, mileage, and history.

I take into account that this vehicle cost £11,995 - and that it was described as being in "excellent condition for its age and mileage", having had "very very light use". When thinking about this description, I think it's also relevant to bear in mind the age and mileage. This vehicle was just over eight and a half years old. Having checked the MOT records, I've seen that the mileage was recorded to have been 99,033 when the vehicle was tested on 27 May 2022. This was four days after Mr E signed the agreement, so I'm satisfied that this was likely to have been the approximate mileage when the vehicle was supplied.

Having thought about all of this, I don't think a buyer would expect this vehicle to be in perfect condition. I think they'd probably expect some parts to have suffered a bit of wear and tear. But I think they'd expect it to be free from anything other than minor faults - and to be able to drive the vehicle for a reasonable amount of time without major issues.

Were there faults with the vehicle?

I've seen evidence about a range of issues with the vehicle. I've started by reviewing the evidence about each individual issue, before moving on to consider whether – overall – I think the vehicle was of satisfactory quality when it was supplied to Mr E.

(i) Boot lid, side window and tyres

I remind myself that the advert stated:

"Excellent condition for its age and mileage, hard to find a better example, very very light use",

"Tyre condition excellent"

"If items such as the tyres... are under 30% life we will replace with new".

Mr E says he's unable to use the boot because it won't lock, and everything gets wet when it rains. He says the window controls don't work. He's told us that he had to replace two of the valves so he could inflate the tyres to the correct pressure, and that three of the tyres were close to the legal limit.

I've seen a copy of the diagnostic report Mr E obtained, dated 16 June 2022, which confirms these faults. It says:

"Boot lid does not lock in the close position on left side bracket either bent or needs adjustment"

"Passenger window in op from drivers switch, goes down but not up needs new switch"

"Rear dust caps sized onto valves, needs new valves".

The report records the remaining tread depth on each tyre. I note that both rear tyres had only 2mm (2%) tread remaining, and that the offside front tyre had only 3mm (22%) tread remaining.

Bearing in mind the price Mr E paid for this vehicle and the descriptions given in the advert, I consider these to be significant issues. I think Mr E was reasonably entitled to expect to be able to open and close the window, to close and lock the boot so that it was secure and reasonably watertight, and that he wouldn't have to replace the tyres for a while.

(ii) Bodywork

Blue have provided a copy of their records. These records show the condition of the bodywork was one of the first things Mr E complained about, within a few days of

collecting the vehicle. In response, Blue said they'd dismissed the cosmetic issues as these would have been visible at the point of sale.

I don't think that approach was quite right. I think the condition of the bodywork should form part of the overall assessment of whether the vehicle was of satisfactory quality when it was supplied. I'll explain why.

I've already explained that the CRA says quality might include the state, condition, appearance, or finish of the goods. It does set out some specific examples of things that wouldn't make the quality of goods unsatisfactory, including:

- where the consumer examined the goods before the contract was made, things that examination ought to have revealed, or
- things that were specifically drawn to the consumer's attention before the contract was made.

The evidence I've seen shows Mr E entered into this agreement online. I'm satisfied that there was no obligation on Mr E to examine the vehicle or to check that it was of satisfactory quality before he signed the agreement. He's told us that he didn't see the vehicle until he collected it, around four days later. I don't consider it relevant that Mr E could examine the condition of the bodywork at that stage, because by then he was already bound by the agreement.

I've also considered whether any defects were brought to Mr E's attention before the contract was made.

I've seen a copy of the advert, which I've carefully reviewed. It stated that the vehicle had "excellent bodywork". The photos showed the front and nearside of the vehicle. I could clearly see a dent to the rear corner of the cab, which hadn't damaged the paintwork. I could also see some scuffs or scratches to the nearside corner of the front bumper, which I consider to be relatively minor. I could see no sign of any other damage, so I think it was reasonable for Mr E to expect the rest of the bodywork to be in excellent condition.

Mr E has shown us photos of the vehicle's bodywork, which I understand to have been taken during the first week of September 2022. These photos show a number of chips and scratches to the paintwork on the cab, rear left panel, rear right panel, and the boot area. Some of these photos show a ruler positioned next to the area of damage. I've seen that some of the damage had caused the paint to be removed down to bare metal, several of the scratches were more than 40mm in length, and some exceeded 150mm in length. I think these photos show significant chips and scratches to the bodywork.

I've seen no supporting evidence to confirm whether all the damage shown in Mr E's photos was present when the vehicle was supplied to him. But considering the number of different areas of the vehicle that are damaged and how quickly Mr E complained to Blue about this, on balance, I consider it most likely that it was.

Bearing in mind the descriptions given in the advert, I think Mr E was reasonably entitled to expect the bodywork to have been in better condition than this.

(iii) Sunroof

Having examined the photos shown in the advert, I'm satisfied that they didn't show whether the vehicle had a sunroof, as promised in the description. Mr E says he was disappointed to discover it doesn't have one.

I haven't seen any supporting evidence to confirm whether the vehicle has a sunroof or not. I don't find it necessary for me to decide this point, because it doesn't affect what I think is the right outcome in this case.

Was the vehicle of satisfactory quality when it was supplied?

I'm satisfied that there were significant issues with the boot, window, tyres, and bodywork. Having thought about all these issues, I don't consider the vehicle to be of satisfactory quality.

Bearing in mind how quickly these problems came to light after Mr E got the vehicle, I'm satisfied that they were present when it was supplied. It follows that I don't consider the vehicle to have been of satisfactory quality when it was supplied.

Putting things right

The Act sets out the remedies available to a consumer whose right to receive goods of satisfactory quality hasn't been met. It says the consumer has the right to reject the goods, provided they do so within 30 days. Blue have provided a copy of their records of Mr E's complaint, which confirm he'd told them he wanted to reject the car within the first 14 days. I'm satisfied that he had the right to do so.

So, to put things right, I think Mr E should be allowed to reject the vehicle. That would mean the agreement would come to an end with nothing further for Mr E to pay.

Mr E told us that he hasn't been able to make full use of the vehicle since he got it, due to the issues he's had with it. I think it would be fair for Blue to refund 15% of the monthly payments Mr E has made, to reflect the fact that he hasn't had full use of all the vehicle's features during this time.

Mr E told us that he had to pay for two valves to be replaced so he could inflate the tyres to the correct pressure - and that he needed to replace the tyres that were in poor condition. I think it would be fair for Blue to reimburse Mr E for the cost of replacing the two corroded valves and three tyres, on production of a receipt or other suitable evidence showing the expense he's incurred for these items.

I can see Mr E has suffered stress and inconvenience due to being supplied with a vehicle that wasn't of satisfactory quality. I've seen evidence showing he sought independent advice, as well as getting a diagnostic report to help him pursue his complaint with Blue.

Mr E told us that the issues with the car caused him a lot of stress whilst he was going back and forth to try to get the problems resolved. He said he found this particularly difficult because he was working long hours - sometimes up to 17 hours a day. He explained that he's been struggling with his mental health, which has meant dealing with seemingly small tasks takes time.

Having thought about what Mr E has told us about the impact this had on him, I think Blue should pay him £150 compensation for the distress and inconvenience he's been caused.

I said I intended to uphold the complaint and direct Blue to:

- End the finance agreement at no further cost to Mr E.
- Refund 15% of the monthly payments Mr E has made.
- Reimburse Mr E the cost of having two valves and three tyres replaced, on production of receipts or other suitable evidence of this expense.

- Interest should be added to each of the refunded payments, calculated from the date of each payment until the date of settlement at 8% simple per year.
- Pay Mr E £150 compensation for the distress and inconvenience he's been caused.

I invited both parties to send me any further information or comments they'd like me to consider.

Responses to my provisional decision

Mr E said he was happy with the outcome I'd proposed. Blue said they had nothing further to add.

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.

As neither party has provided any further information or comments in response to my provisional findings, I see no reason to depart from them.

My final decision

For the reasons I've explained, I uphold this complaint and direct Blue Motor Finance Ltd to:

- End the finance agreement at no further cost to Mr E.
- Refund 15% of the monthly payments Mr E has made.
- Reimburse Mr E the cost of having two valves and three tyres replaced, on production of receipts or other suitable evidence of this expense.
- Interest should be added to each of the refunded payments, calculated from the date of each payment until the date of settlement at 8% simple per year.
- Pay Mr E £150 compensation for the distress and inconvenience he's been caused.

If Blue consider tax should be deducted from the interest element of the award, they should tell Mr E how much they've taken off. They should also give Mr E a tax deduction certificate if he asks for one, so he can reclaim the tax if he's eligible.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 3 February 2023.

Corinne Brown
Ombudsman