

The complaint

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

What happened

Mrs K is represented in her complaint. However, for the sake of simplicity in this decision I have referred to all the submissions from Mrs K's representative as being made by Mrs K.

In March 2022 Mrs K acquired a used car financed through a hire purchase agreement with Blue Motor. The car was 11 years old and had been driven approximately 65,000 miles.

Mrs K collected the car on 24 March 2022. She said the car broke down the same day. She took it to a local garage which advised replacing three injectors. The garage liaised with the dealer who agreed to replace only one injector. When Mrs K collected the car it broke down the same day within a few hours with an error stating that the other two injectors needed to be replaced. Mrs K said the car went back and forth to the dealership on numerous occasions between March and June 2022. And in June she asked to return the car as it wasn't fit for purpose. She brought a complaint to Blue Motor. She said she'd only had four days use of the car since entering the agreement.

In its final response Blue Motor didn't uphold the complaint. It said the problems with the vehicle indicated there was a driver error including that Mrs K had put in incorrect fuel and there had been high revving in low gears. Mrs K brought her complaint to this service.

Our investigator concluded that based on the evidence provided it seems likely there is a fault with the car and that it wasn't of satisfactory quality when supplied. She said it was fair that Mrs K be allowed to reject the car.

Blue Motor asked for a final decision from an ombudsman. It made some additional comments to which I have responded below.

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 agree with the conclusions reached by the investigator for the reasons I've outlined below.

Mrs K's agreement is a regulated consumer credit agreement and our service is able to consider complaints against it. As the supplier of the car Blue Motor is responsible for the quality of the car and the Consumer Rights Act 2015 (CRA) implies terms into the agreement requiring the car to be of satisfactory quality.

Exactly what is satisfactory quality will depend on the specific circumstances. In this instance the complaint relates to a car and when considering whether the car is of satisfactory quality the car's age and mileage at the time it was supplied are key considerations. Blue Motor was

required to ensure the car was of satisfactory quality at the time it was supplied but it wouldn't be responsible for any wear and tear items that develop over time and might reasonably be expected on a used car. Mrs K's car was 11 years old and had travelled almost 65,000 miles. So it would be reasonable to expect some wear and tear in its mechanical components.

Blue Motor commissioned an independent report dated 6 October 2022. The inspector said there is a clicking noise from the starter motor when attempting to start the engine and the crankshaft does not rotate. It said this type of symptom is consistent with the engine having locked up or seized but may also be resultant of other concerns including starter motor and electrical issues. The report said the weak coolant antifreeze strength indicates the system has been topped up with water and the low level may suggest there was a leakage on the cooling system which may be relevant. It said the fuelling issues reported by the repairer may also be a contributing factor of the engine's current condition. It concluded the cause of the engine non-start has not been diagnosed and/or could not be demonstrated to the inspector, no opinion could be provided as to how the engine has come to be in its current condition.

The car had been with the dealer since June 2022. In March 2023 Mrs K commissioned her own third-party inspection of the car which concluded that the engine needs rebuilding.

I'm satisfied there is a fault with the car as both independent inspections confirm the engine has seized. I am also persuaded that it wasn't of satisfactory quality at the point of sale. I say this because very shortly after Mrs K collected the car it broke down. I've seen a quote from a third-party garage dated 6 April 2022. The quote is for the replacement of three fuel injectors. In the notes on the invoice it says:

"fuel injector number two stuck, fuel injectors number six and eight out of specific values and recommended to change. As per conversation with car seller (the dealer) they requested to change just injector number two and refused to change injectors number six and eight"

I've seen an invoice from the same garage dated 9 April 2022 for the replacement of one fuel injector. This repair was paid for by the dealer.

In its response to our investigator's view Blue Motor said the quote dated 6 April was fake. It said the dealer stated it didn't receive this quote from anyone, that the registration number entered was wrong and the dealer feels that it has been made to help support the customer's claim. Blue Motor also said the dealer is adamant the timeline is incorrect, that the mechanic found only one faulty injector, and it had asked the customer to bring the vehicle back so it could investigate.

Our investigator spoke with the repairing garage, and it confirmed the quote was produced by them and the details of the quote, including the VAT number matches their records. The garage also confirmed the registration number was a typing error. I'm persuaded there isn't any evidence of the quote being fraudulent, that only one fuel injector was replaced when three were needed and that the dealer chose not to carry out a full repair. Given that this happened within two weeks of Mrs K acquiring the car and that the car has suffered further engine failure I'm satisfied the car wasn't durable when supplied.

Blue Motor has said it believes the problems with the car were caused intentionally. It provided the following documents:

- Invoice from a second garage, independent of the first repairing garage, dated 6 May 2022 for the replacement of three injectors;

- Letter from this garage to the dealer dated 14 June which said the vehicle was originally brought in for a misfire on cylinder 5, 6, and 8. It said three injectors were replaced and this problem was solved. The garage said before replacing the injectors small particles in the fuel line injectors and fuel rail were found. It suggested incorrect fuel had been used.
- Invoice dated 21 June 2022 from the same garage which said in its opinion the vehicle required *“fuel system cleaning, injector removing and testing for dripping or leaking...”*
- Letter from this garage to the dealer dated 4 July 2022 which said *“a diagnosis of the engine seized, possible crankshaft/big end bearings damage;”*
- Letter from this garage to the dealer dated 12 July 2022 which said *“this vehicle came to our workshop with a fault related to the fuel injectors. We have identified a fault with 3 fuel injectors, the cause of that fault was fuel mixture (diesel and petrol) as we found a trace of diesel fuel mixed with the petrol inside the fuel system...We are now sure that the current issue (engine seized) with this vehicle is intentional and not due nor related to an existing fault. Our opinion in this issue is that the customer intentionally drove the vehicle on a high revving engine (force selecting a lower gear ratio and keep driving at the highest RPM)...”*

Mrs K provided a video taken in a garage forecourt illustrating that it's not possible to insert the incorrect fuel nozzle into the car. So it seems unlikely that she would have put the incorrect fuel in the car in the very short time she was able to drive it. While the independent inspection commissioned by Blue Motor was inconclusive regarding the cause and specifics of the engine failure there is no suggestion in the report that the problems were intentionally caused.

The first fault occurred very soon after Mrs K acquired the car. Blue Motor is entitled to one opportunity to repair the car and it had this opportunity. But the fault wasn't repaired as only one injector was replaced rather than three as recommended. And I cannot discount the possibility that failure to replace the three injectors during that first repair has caused further engine problems. So I'm persuaded the goods were not of satisfactory quality at the point of sale.

As our investigator has outlined Mrs K hasn't had fair use of the vehicle as it broke down very soon after she acquired it and she hasn't used the car since 23 June 2022. The mileage has only increased by 514 miles. So I think it reasonable that Blue Motor refund Mrs K all of her monthly payments.

Mrs K has only had use of the car for a short amount of time which has caused her distress and inconvenience, including impacting a recent holiday. So I think it fair Blue Motor pay her £250 compensation. She has also incurred some costs (£280) related to the car including having the car towed and having the car inspected. She should be refunded.

Putting things right

To put things right Blue Motor Finance Ltd must:

- end the agreement and collect the car both at no further cost to Mrs K;
- refund Mrs K's deposit of £4,000
- refund to Mrs K all payments to the date of settlement;
- refund to Mrs K £280 for the additional expenses of towing, and the report on production of receipts for both of these items;
- pay 8% simple yearly interest on all refunded amounts from the date of payment until the date of settlement;
- pay Mrs K compensation of £250 for any distress or inconvenience that's been caused;

- remove any adverse information from Mrs K's credit file in relation to this agreement.

My final decision

My final decision is that I uphold this complaint and Blue Motor Finance Ltd must put things right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K to accept or reject my decision before 20 October 2023.

Maxine Sutton
Ombudsman