

The complaint

Mr S complains about the quality of a car supplied to him under a hire purchase agreement with Blue Motor Finance Ltd ("Blue").

What happened

In November 2021 Mr S took out a hire purchase agreement with Blue for a used car. The car was around five and a half years old and had travelled approximately 60,170 miles. The cash price was £12,090. Mr S put down a deposit and part exchange allowance totalling £706.71, with the rest repayable over five years using the finance agreement.

Mr S says that after about a week there was an issue with the engine overheating. He says he took the car back to the supplying dealer, and that they had it for around three weeks for repairs to be carried out.

Mr S says he made an initial enquiry to Blue in November 2021 for help in getting the problem put right. He says he didn't take that any further because the dealer told him they'd replaced the head gasket, water pump, timing chain and fitted a new clutch.

Mr S says after he picked the car up, he noticed a blowing noise coming from the exhaust when accelerating so he took it back to the dealer again. He says the second time he picked it up he noticed a noise when he put his foot on or off the clutch, but he thought all the required work had been done.

Mr S says around six months later the car failed its MOT due to a problem with the exhaust. He says he was told it had previously been badly repaired, causing dangerous gases to escape. He says he had to pay over £250 for this to be repaired.

Mr S says the garage also told him the clutch bearings were going, and that this was causing the noise when he pressed the clutch pedal. He says he took the car back to the dealer for a third time. Mr S says they had the car for around two weeks for another new clutch to be fitted.

Mr S says a month or two later the clutch failed again, leaving the car undriveable. He says by now he'd lost faith in the dealer, so he took the car to his local garage. He says they told him the engine hadn't been refitted properly because wires and pipes hadn't been clipped back in place, bolts were missing, there was an oil leak, the battery wasn't secure, and the casing was cracked. He says they also told him there was damage to the rubbers around the ball joint, which he believes must have been caused the last time the dealer had the car, shortly after it passed its MOT.

In December 2022 Mr S complained to Blue that repairing these problems had cost him over £2,000 - and that he'd had to cancel his holiday so he could pay the bill. But Blue said they wouldn't uphold the complaint because the repairs had already been carried out. They said they hadn't seen enough evidence to show the fault was already present or developing when Mr S got the car.

Dissatisfied with this response, Mr S brought his complaint to us. But our investigator wasn't persuaded that the car hadn't been of satisfactory quality when it was supplied to Mr S. He said he hadn't seen clear evidence showing the condition the car was in before the recent repairs were carried out.

Mr S provided more information. He said he'd made a number of requests for invoices and receipts to show what work the dealer had done on the car, but he'd only received a receipt for clutch parts. Mr S asked for an ombudsman to review his case again, so it's been passed to me to make a final decision.

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 the agreement Mr S entered into was hire purchase, I can consider a complaint about it. Under this type of agreement Blue is also the supplier of the car, so they're 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 is relevant to this complaint. It says that under a contract to supply goods, there's an implied term that the quality of those goods is satisfactory.

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. In a case involving a car, it seems likely that the relevant circumstances a court would take into account might include things like its age, mileage, and history.

In this case, I bear in mind that the car was around five and a half years old and had covered around 60,170 miles when it was supplied to Mr S. It cost £12,090, which is significantly less than it would've cost when it was new. I don't think a reasonable person would have the same standards for this car as they would a newer one with less mileage.

Mr S has shown us copies of two invoices from his local garage dated 17 October 2022, listing the following work:

Investigation and clutch bleed
Supply and fit... clutch kit
Supply and fit clutch master
Supply and fit offside engine mount
Secure battery
Reroute wiring and hoses.

Mr S has also provided photo and video evidence showing loose fittings, wiring and hoses inside the engine compartment. So, I can see he's had problems with the car.

The evidence from Mr S's local garage shows these problems were present in October 2022. Blue would only be liable for the cost of repairs if they were needed as a result of the car not being of satisfactory quality when it was supplied to him, around 11 months earlier.

I've seen very different accounts from the parties in this case. Blue say neither they, nor the credit broker, were aware of any earlier problems with the car - or that any repairs had been carried out by the dealer.

Mr S has told us that he had problems from an early stage, and that he took the car back to the dealer three times for repairs to be carried out. He says he was never given any paperwork showing what work they'd done, despite asking for this a number of times.

Mr S has provided screenshots of messages recorded on his phone, which he says shows the conversations he had with the dealer at the time. I've reviewed these carefully. Although I can't say for sure who sent the messages, on balance, I think it most likely that these conversations were with the supplying dealer. And I do think they show Mr S took the car back on more than one occasion so the dealer could look into concerns he'd raised.

But the phone messages don't give me full details of what those concerns were. And they don't show me what work was done – if any – to put things right. I haven't seen supporting evidence confirming the car went back to the dealer for work because there was a significant problem with it when it was supplied to Mr S. For that reason, I'm not persuaded that the car wasn't of satisfactory quality when he got it.

A clutch is a part that may need to be replaced due to normal wear and tear. Mr S has provided evidence showing he paid for this to be replaced in October 2022. By that time the car was six and a half years old, and the MOT records show it had covered more than 64,000 miles. Without supporting evidence showing a problem with the clutch was already developing when the car was supplied to Mr S, I'm not persuaded that Blue would be liable for the cost of replacing it.

Nor am I persuaded that the dealer left the car in an unsatisfactory condition after carrying out repair work. I appreciate Mr S feels strongly that they must have been responsible for leaving the fittings, wiring and hoses loose in the engine compartment. But I've seen no supporting evidence to show that was what was most likely to have happened. Given that at least one other garage had worked on the car since the dealer last had it, I can't say who was most likely to have caused those problems.

I do appreciate the difficult situation Mr S now finds himself in after having to pay out for expensive repairs. But for the reasons I've explained, it wouldn't be fair for me to direct Blue to reimburse him for those costs.

My final decision

Although I realise Mr S will be disappointed with this decision, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 2 November 2023.

Corinne Brown
Ombudsman