

## **The complaint**

Mrs F complains that a car acquired with finance from Blue Motor Finance Ltd ("BMF") wasn't of satisfactory quality.

## **What happened**

In May 2022 Mrs F was supplied with a car and entered into a hire purchase agreement with BMF. The cash price of the car was £19,500. Mrs F paid a deposit of £1000. The agreement was for a term of 60 months with monthly payments of £430.16. At the point of supply the car was around 7 years old and had covered around 45,630 miles.

In November 2022 Mrs F experienced issues with the car making a noise. The car was recovered to a main dealer who diagnosed a failure of the turbo and engine. The main dealer advised Mrs F that the estimated repair costs would be £16,000.

Mrs F contacted the supplying dealer, but it said the fault was due to wear and tear because of the mileage that had been covered in the car since the point of supply.

Mrs F complained to BMF. In its final response, BMF said it wasn't upholding the complaint because the car had covered above average mileage of 11,924 in the five months since the point of supply. It said it didn't believe that the fault could've been present at the point of supply given the mileage covered.

Mrs F remained unhappy and brought her complaint to this service.

Our investigator upheld the complaint. They said that despite the mileage covered by the car since the point of supply, taking into account the age and overall mileage of the car they thought the turbo and engine had failed prematurely and said that the car wasn't sufficiently durable and therefore wasn't of satisfactory quality. The investigator said that Mrs F should be allowed to reject the car and recommend that the costs she'd incurred on diagnostics and insurance be refunded.

BMF didn't agree. It said that Mrs F had covered 11,924 miles since purchasing the car and said that the impeller on the turbo could fail at any time. It said that if there had been a fault with the impeller at the point of supply the car would not have been able to cover the mileage that it did. BMF said the cause of the engine failure was due to wear and tear.

## **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.

The Consumer Rights Act 2015 is relevant to this complaint. This says that goods must be of satisfactory quality when supplied. Cars are of satisfactory quality if they are of a standard that a reasonable person would regard as acceptable, taking into account factors such as the age and mileage of the car and the price paid. The legislation says that the quality of the goods includes their general state and condition, as well as things like fitness for purpose,

appearance and finish, freedom from minor defects, safety and durability.

The car supplied to Mrs F was around 7 years old and had covered around 45,630 miles. So it's reasonable to expect that parts of the car had already suffered some wear and tear and that the car would require repairs and maintenance sooner than, say, a brand new car.

Under the Consumer Rights Act 2015, where a fault occurs within the first six months of the point of supply, it's assumed that the fault was present or developing at the point of supply and it's generally up to the business to put things right. The business is allowed one opportunity to repair the fault. If the repair isn't successful, the consumer can reject the car.

After six months the burden of proof is reversed and it's up to the consumer to show that the car wasn't of satisfactory quality at the point of supply.

I've reviewed the available information about the issue with the car. Based on what I've seen, I'm satisfied that the car has a fault. I say this because the main dealer has diagnosed severe damage to the impeller, turbo whine, and a compression issue, and has recommended replacement of the turbo and the engine.

I've gone on to consider whether the car was of satisfactory quality when it was supplied.

BMF has said that because the car was able to cover 11,924 miles in the five months since the point of supply before the fault occurred. This means that the fault with the turbo wouldn't have been present when the car was supplied.

As I've said above, the relevant legislation assumes that a fault which occurs in the first six months was present or developing at the point of supply. In order to show otherwise, BMF would need to persuade me that the fault was caused by something else. I appreciate that the car has covered more than average mileage in the five months since the point of supply, but I don't think that this alone is sufficient to rebut the presumption in the relevant legislation. It's possible for a turbo (including its component parts) to fail over a long period of time before it starts to make a noise and fail completely.

Generally, a turbo should last the lifetime of a vehicle or around 150,000 miles. So if a turbo fails prematurely – as is the case here – then I need to consider whether the turbo was sufficiently durable, or whether there was an external factor which caused the failure. Most turbo failures are caused by oil starvation or oil contamination.

The service history is important because it shows how often the oil has been changed. If the oil hasn't been changed regularly enough, this can result in oil contamination.

I haven't seen a full service history for this vehicle. I'm aware that Mrs F had a service carried out shortly after the point of supply. But there's no information about whether the car was serviced prior to this, and whether any prior services were carried out in accordance with the manufacturers recommended intervals.

I understand why BMF seek to rely on the mileage point. However, the mileage covered in the five months since the point of supply still doesn't explain why the turbo has failed prematurely. I think it's more likely that there was damage to the turbo (or a component part of the turbo) at the point of supply as opposed to a failure caused by wear and tear.

Based on what I've seen, I think it's more likely that the turbo was failing at the point of supply. This means that the car wasn't of satisfactory quality. Even if I'm wrong about the turbo having a fault at the point of supply, I'm of the view that such a premature failure wouldn't be due to wear and tear but rather that the turbo wasn't sufficiently durable, which

means that the car wasn't of satisfactory quality when it was supplied.

### **Putting things right**

I've thought about whether the business should be given the opportunity to repair the car. However, it's clear in this case that repairs aren't commercially viable because the estimated costs of replacing the turbo and the engine exceed the value of the car. I'm therefore of the view that Mrs F should be allowed to reject the car.

Mrs F hasn't been able to use the car since the turbo and engine failed in November 2022. I don't think it's fair to expect Mrs F to have to pay for a car which she can't use because it is of unsatisfactory quality. I'm therefore asking BMF to refund all monthly payments made by Mrs F since this date.

Mrs F has paid for diagnostic tests to try and find out what was wrong with the car. I think it was reasonable for her to do this in circumstances where BMF didn't offer to arrange an independent inspection. Because I've found that the car wasn't of satisfactory quality, I'm asking BMF to refund the costs of these tests.

Mrs F raised her complaint with BMF in November 2022. She wasn't provided with a courtesy vehicle and has had to purchase an alternative vehicle so she can get to work. She's continued to insure the faulty car, as well as meeting all of the costs of the replacement car. This has caused her financial hardship and increased distress and inconvenience, so I've taken account of this when awarding compensation.

### **My final decision**

My final decision is that I uphold the complaint. Blue Motor Finance Ltd must:

End the agreement with nothing further to pay

Arrange for the car to be collected at no cost to Mrs F

Refund the deposit

Refund all monthly payments made since November 2022

Refund the costs of the diagnostics (£1,799.02)

Refund all Mrs F's insurance payments on the faulty car made since November 2022

Pay 8% simple interest on all amount refunded calculated from the date of payment to the date of settlement

Pay £125 for distress and inconvenience

Remove any negative information from Mrs F's credit file in relation to this agreement

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs F to accept or reject my decision before 13 February 2024.

Emma Davy  
**Ombudsman**

