

## **The complaint**

Miss W complains about the quality of a used car she acquired through a hire purchase agreement with Blue Motor Finance Ltd.

## **What happened**

In mid June 2022 Miss W entered into a 60 month hire purchase agreement and acquired a used car from a dealership for £8,990. She paid a deposit of £140. The car was registered in June 2014 and had covered approximately 99,981 miles when it was provided to Miss W. In August 2023 Miss W complained to Blue Motor Finance that the car had failed its MOT on 1 July 2023 due to a problem with its headlamp. The MOT said *'repair immediately (major defects) - nearside headlamp not working on dipped beam'*.

Miss W said the MOT centre told her there was no bulb inside the headlamp and when the engineer checked the type of bulb from the outside headlamp he noticed the clips were broken. Miss W said that meant the headlamps weren't checked properly at the previous MOT and should have been changed before she acquired the car. Miss W asked Blue Motor Finance for the name of the front headlamps that were used on the car.

Blue Motor Finance's final response letter of 24 August 2023 to Miss W said it didn't uphold her complaint. It considered that the problem with the headlamp was through normal wear and tear and it wasn't responsible for the repair. Blue Motor Finance told Miss W she would be able to find the type of headlamp she needed at a manufacturer approved garage or she could look at the manufacturer's website for a wider variety.

Miss W complained to us, she wanted Blue Motor Finance to repair the car headlamp. She said she'd been unable to contact the dealership about the problem.

Our Investigator considered that the fault with the headlamp was due to wear and tear so the car was of satisfactory quality when it was supplied to Miss W. That meant Blue Motor Finance didn't need to do anything to resolve Miss W's complaint.

Miss W disagrees and wants an Ombudsman decision. She said we'd failed to contact the dealership. She wanted to speak to an Ombudsman as she was unable to contact the dealership and she wanted advice as the car had a two year warranty ending in July 2024 and the car's brake was faulty. She added that the car's headlamp has a wiring issue, otherwise the bulb would have been changed, and the repair could cost thousands of pounds.

Miss W also sent us a 'vehicle health check' on her car dated 13 June 2024 which showed a fault with the 'light/lamps' and some issues with unrelated parts.

Our Investigator told Miss W that an Ombudsmen wouldn't be able to speak to her. If Miss W wanted advice while she waited for an Ombudsman's decision she could contact Citizens Advice or take legal advice.

## **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 Service's role is to be independent from Miss W and Blue Motor Finance. So I'm not able to speak to Miss W to give legal advice about any rights and remedies she may have under any warranty she has with the dealership. This Service can only consider complaints about 'regulated businesses' and 'regulated' and other specified activities as defined by the regulator's (the Financial Conduct Authority) rules under which we operate. The dealership isn't a regulated business. That means I can't consider Miss W's concerns that she can't find her dealership to repair the fault with the headlamp under the warranty she says she has with them. So we wouldn't try to find and contact the dealership as part of looking into Miss W's complaint.

The finance agreement between Miss W and Blue Motor Finance is a regulated hire purchase agreement. So this Service is able to consider complaints relating to it. Blue Motor Finance is the supplier of the goods under this type of agreement and is responsible for a complaint about Miss W's car's quality. That's why we've written to Miss W about whether we think Blue Motor Finance, not the dealership, has been fair and reasonable in its response to her complaint.

In considering what's fair and reasonable, I need to have regard to the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and, where appropriate, what I consider to have been good industry practice at the relevant time.

The Consumer Rights Act 2015 (CRA) is relevant to this complaint. It says that under a contract to supply goods, there is an implied term that "the quality of the goods is satisfactory". To be considered "satisfactory", the goods would need to meet the standard that a reasonable person would consider satisfactory – taking into account any description of the goods, the price and all the other relevant circumstances. It seems likely that in a case involving a car, the other relevant circumstances a court would take into account might include things like the age and mileage at the time of sale and the car's history.

The quality of the goods includes their general state and condition and other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability can be aspects of the quality of goods.

I think that at the time Miss W complained to Blue Motor Finance there was a fault with the car. The car failed its MOT on 1 July 2023 due to '*major defects*' that needed repairing immediately, those defects included the nearside headlamp as it wasn't working on dipped beam. The car's 'vehicle health check' dated 13 June 2024 said there was '*No dipped beam operation*' on the nearside front, which is the fault Miss W complained about, and also on the offside front. But it's reasonable for me to understand that Miss W has had the fault with the headlamps repaired as the car passed its MOT on 14 June 2024.

Where a fault occurs after the first six months of a car being supplied there's a presumption that the fault wasn't present at the point the car was acquired, unless it can be shown otherwise.

Miss W didn't tell Blue Motor Finance that the headlamp wasn't working until thirteen months after she acquired the car and there's insufficient evidence that she knew about the fault within the first six months of the car being supplied to her. Even if the fault was present within the first six months I still need to consider whether the fault means that the car wasn't of satisfactory quality, taking into account the factors I've detailed above.

When Miss W acquired the car it was eight years old and had done just under 100,000 miles (99,981 miles), so above average mileage. And the price of the car was lower than it would have been if it had been supplied new. So I think it's fair to say that a reasonable person would expect that parts of the car might have already suffered notable wear and tear. And there's a greater risk this car might need repair and/or maintenance sooner than a car which wasn't as road worn when it was supplied.

Miss W said that the car's headlamps weren't checked properly at the previous MOT, which would have been in 2022, and should have been changed before she acquired the car. I've looked at the car's MOT history. On 24 June 2022, at the time Miss W acquired the car the car initially failed its MOT and one of the issues was '*Nearside Front Headlamp not working on main beam*'. Later the same day the car had another MOT and passed, only having 'advisories' which didn't relate to the headlamps. So I think the fault with the nearside front headlamp had been repaired when the car was supplied to Miss W, otherwise the car wouldn't have passed the second MOT.

Miss W complained to Blue Motor Finance, in August 2023, after her car failed its MOT on 1 July 2023 due to the nearside headlamp not working on dipped beam. It's not clear if that fault was with the same or a different section of the headlamp unit as in June 2022.

Miss W has told us that the problem with the headlamp was due to a missing bulb and/or wiring issue. But I haven't seen any evidence to support that a missing bulb and/or wiring issue was the cause.

Blue Motor Finance consider that the problem with the headlamp was through normal wear and tear. Even if the fault in 2023 was with the same part of the headlamp unit as in 2022 I think it's reasonable to consider that headlamp parts are wear and tear parts that need replacing over time. At the time of the 2023 MOT the car was nine years old and had done 106,361 miles. So Miss W had been able to drive the car for a year and 6,369 miles before she noted the problem.

The evidence Miss W provided from the MOT centre said that at the 2023 MOT '*the passenger side headlight was missing the spring clip that holds the bulb in place*'. It's possible that the headlamp clip was missing from when the front headlamp was repaired in June 2022. But I think that's unlikely because if so the front headlamp wouldn't have worked from June 2022 which Miss W would have noticed almost immediately. I think it's probable that the issues with the headlamp occurred sometime between Miss W acquiring the car in June 2022 and the MOT on 1 July 2023. There's insufficient evidence to show that the fault occurred within the first six months from when she acquired the car.

On the evidence I have I think Blue Motor Finance could reasonably consider that the problem with the headlamp was due to normal wear and tear in line with the car's age and mileage. That means I think the car was of satisfactory quality when it was supplied to Miss W.

Blue Motor Finance doesn't need to take any action to resolve Miss W's complaint.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 19 September 2024.

Nicola Sisk

**Ombudsman**