

The complaint

Ms S complains that a car supplied to her under a hire purchase agreement with Blue Motor Finance Ltd (Blue Motor) is of unsatisfactory quality.

What happened

In March 2023, Ms S was supplied with a used car through a hire purchase agreement with Blue Motor. The cash price of the car was £9,100. Under the agreement, there are 36 monthly payments of £229.96. At the time of supply, the car was around six years old and had done around 44,605 miles.

Ms S says that, between March and November 2023, she raised various issues she was having with the car with the supplying dealership. Unhappy with the dealership's response and service, in around October 2023, Ms S got her car inspected by an independent motor engineer.

In a vehicle health check, the engineer identified various issues with the car including the tyres, the windscreen washers, the oil level, the front brake discs and pads and the gearbox. The engineer also wrote to Blue Motor to confirm that the issues with the gearbox and brake discs and pads would've been present at the time of supply. He said in his view the car's most recent MOT didn't highlight some "*fundamental faults*" with the gearbox and brake discs and pads but the previous MOT certificate did mention some of them. The engineer said in his view this showed not only that they were pre-existing but also were omitted from the recent MOT inspection.

Ms S complained to Blue Motor about the issues the engineer identified, along with another issue she'd had with a broken windscreen wiper. Ms S said the car Blue Motor had supplied wasn't of satisfactory quality and she wanted to reject it and get a full refund.

Blue Motor didn't uphold Ms S's complaint. It said it had no evidence the issues Ms S had raised were present or developing at the time of supply. So Ms S referred her complaint to us.

The investigator who looked at Ms S's complaint upheld it. Based on the evidence he'd seen, he thought it was likely the issues Ms S had complained about were present or developing at the point of supply.

Blue Motor disagrees. It says the dealership carried out a diagnostic test in October 2023 that didn't highlight any faults. And it says the dealership also carried out a test drive at the same time that highlighted a potential issue with the gearbox but that Ms S was by then outside her warranty period. So Ms S's complaint has come to me to decide.

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.

I've also considered the relevant law and regulations, any regulator's rules, guidance and standards, any codes of practice, and (if appropriate) what I consider was good industry practice at the time.

Having done so, I've decided to uphold Ms S's complaint, as I'll explain.

Blue Motor supplied Ms S with a car under a hire purchase agreement. This is a regulated consumer credit agreement, which means we can look at complaints about it against Blue Motor.

The Consumer Rights Act 2015 (CRA) covers agreements such as Ms S's hire purchase agreement. Under it, there's an implied term that the goods supplied will be of satisfactory quality. And the CRA says goods will be considered of satisfactory quality where they meet the standard a reasonable person would consider satisfactory – taking into account the description of the goods, the price paid, and other relevant circumstances. I think in this case those relevant circumstances include, but are not limited to, the age and mileage of the car and the durability of its component parts.

The CRA says the quality of the goods includes their general state and condition, as well as other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety and durability. Durability means the component parts of the car must last a reasonable amount of time.

The CRA also implies that goods must conform to contract within the first six months. So, where a fault is identified within the first six months, there's an assumption it was present when the car was supplied, unless Blue Motor can show otherwise. But when a fault is identified after the first six months, the CRA implies it's for Ms S to show it was present when the car was supplied.

So, if I thought the car was faulty when Ms S took possession of it, or that it wasn't sufficiently durable, and this made the car not of a satisfactory quality, it'd be fair and reasonable to ask Blue Motor to put this right.

In Ms S's case, as I've mentioned, the car was used, had covered around 44,605 miles and was about six years old. I think it's reasonable to expect it to have some wear and tear because of its age – so I'd have different expectations of it compared to a brand-new car. That means Blue Motor wouldn't be responsible for anything that was due to normal wear and tear while the car was in Ms S's possession. But, as I've said, given the age and mileage of the car, I'd expect its component parts to last, and for Ms S to be able to drive it without major issues, for a reasonable amount of time.

I understand the supplying dealership replaced the broken windscreen wiper fairly soon after Ms S noticed it wasn't working – but the car still has other issues. These don't, however, automatically mean the car wasn't of satisfactory quality at the point of supply. So that's what I need to consider in this decision by looking at each of the issues Ms S has raised with Blue Motor.

Did the issues with the car make it of unsatisfactory quality?

Windscreen wiper

Windscreen wipers are items that need changing from time to time due to wear and tear. But Ms S says she noticed the broken wiper within a week of supply. So I think it's likely the fault was present at the time of supply.

The CRA says where the supplied goods aren't of satisfactory quality, the consumer can require the supplier (Blue Motor in this case) to fix any faults. I understand the supplying dealership fixed this issue.

Tyres, oil level and windscreen washers

Tyres are also items that need changing from time to time due to wear and tear. The legal minimum tread depth is 1.6mm across the central three quarters of a tyre. By the time Ms S had her car inspected by the independent motor engineer, she'd driven around 4,600 miles since the time of supply around eight months earlier. The engineer reported the front tyres had 2mm of tread across their central three-quarters and required replacing, while the rear tyres had 3mm and replacing them was advised. I think it's likely the tyres had worn in the time Ms S had had the car due to normal wear and tear. So I don't think it's likely they made the car of unsatisfactory quality.

The health check Ms S's engineer carried out also showed the engine oil was on minimum and two of the windscreen washers weren't spraying. Engine oil needs to be changed from time to time as part of normal car maintenance and windscreen washers are items that wear over time. So I don't think it's likely either of these issues made the car of unsatisfactory quality.

Brake discs and pads

When Ms S's engineer carried out his inspection, he said the front brake discs and pads needed to be replaced. And in his letter to Blue Motor, he said the issue with these items would've been present at the point of supply. He also referred to the MOT from February 2022 (the year before Ms S was supplied with the car), which had an advisory: "*Front Brake pad(s) wearing thin*".

Since the brake pads weren't mentioned as an advisory in the 2023 MOT, I think it's likely they were replaced after February 2022. Brake discs and pads are, of course, a wear and tear item. But even in urban heavy driving, I think they should last for around 30,000 miles. If the brakes were replaced immediately after the February 2022 MOT, the car had only driven a little over 11,000 miles by the time Ms S's engineer inspected it – and less than 7,000 miles at the time of supply.

Given this and that Ms S's engineer says these now need to be replaced, I think it's most likely they were either faulty or not of sufficient durability at the time of supply. So, on the evidence I have, I don't think a reasonable person would consider them to be of a satisfactory standard.

Gearbox

When Ms S's engineer carried out his inspection, he said there was an issue with the gearbox that would've been present at the point of supply.

The supplying dealership also thought there might be a gearbox issue when it carried out a diagnostic test and road-tested the car around the same time. The dealership says this issue wasn't present at the point of supply – and supports its position by saying Ms S had had the car for around eight months and driven over 4,500 miles in it since that time.

Where the evidence is contradictory, as it is here, I have to decide which I think is the most persuasive. As well as the evidence I've already mentioned, I've also listened to a call between Blue Motor and Ms S's engineer discussing his inspection. In relation to the

gearbox, he says for it to “go” within 5,000 miles is “*very, very, very unusual*” and, in his opinion, the issue would’ve been present at the point of supply (although he also says he can’t guarantee it). He also describes the car as “*barely driving*” when he inspected it.

I find Ms S’s engineer’s evidence on this issue persuasive. Given the price paid and the mileage the car had done from the time of supply, I would’ve expected the gearbox to last more than eight months. So I don’t think it’s likely this component was reasonably durable at the point of supply and I don’t think a reasonable person would consider it to be of a satisfactory standard.

Having looked at all the evidence I have, I’m satisfied the car Blue Motor supplied Ms S wasn’t reasonably durable. And this makes it not of satisfactory quality at the point of supply. So I now need to look at what I think Blue Motor needs to do to put things right for Ms S.

Putting things right

The CRA says if the consumer requires the trader to repair or replace the goods, the trader must (among other things) do so within a reasonable time and without significant inconvenience to the consumer.

Given that Blue Motor was made aware of the issues Ms S was having with her car in November 2023 and has yet to arrange repairs, it’s arguable Blue Motor has failed to comply with the CRA. And, in these circumstances, I think it’s fair and reasonable Ms S should be able to reject the car.

In November 2023, Ms S was told her car shouldn’t be driven and I understand she hasn’t had the use of it since then. Ms S says the distress caused by the ongoing issues with her car has significantly impacted her mental and physical health, causing heightened anxiety and stress, as well as considerable financial inconvenience. She says she’s incurred additional expenses for alternative travel, including the use of taxis, which were unforeseen and adversely impacted her budget.

From what Ms S says, it’s clear her experiences with the car have caused her considerable distress and inconvenience. For failing to supply Ms S with a car that was of satisfactory quality, I think it’s fair and reasonable for Blue Motor to pay her £200 in compensation.

My final decision

For the reasons I’ve given, I uphold Ms S’s complaint and I direct Blue Motor Finance Ltd to:

- End Ms S’s hire purchase agreement with nothing further to pay;
- Collect the car at no cost to Ms S at a time that’s convenient for her;
- Reimburse Ms S her deposit of £2,500;*
- Reimburse Ms S all payments made to the agreement from November 2023;*
- Reimburse Ms S £60 for the independent motor engineer’s inspection;*
- Pay Ms S £200 in compensation for the distress and inconvenience of being supplied with a car that wasn’t of satisfactory quality; and
- Remove any adverse entries relating to this agreement from Ms S’s credit file.

*Blue Motor Finance Ltd must also pay Ms S interest at the rate of 8% a year simple on this amount from the date of payment to the date of settlement. And if Blue Motor Finance Ltd considers that tax should be deducted from the interest element of this award, it should give Ms S a certificate showing how much it’s taken off so she can reclaim that amount, if she’s eligible to do so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms S to accept or reject my decision before 14 October 2024.

Jane Gallacher
Ombudsman