

The complaint

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

What happened

Ms C acquired a car financed through a hire purchase agreement with Blue Motor she signed in June 2023. She said she started reporting faults with the vehicle on 20 July and called Blue Motor to collect the car. On 15 August Ms C said the engine management light was illuminated. Ms C said she was advised by the dealer to call the warranty company, which had the car checked. It advised there may be a problem with the injectors. The car was also booked into a garage which reported that the DPF was permanently faulty. Ms C said the car was difficult to start and going into limp mode. The garage provided a quote for a new exhaust system and replacement DPF. The warranty company refused to pay. Ms C complained to Blue Motor. She said the car wasn't fit for purpose.

In its final response Blue Motor said the issues reported on Ms C's vehicle were of a general wear and tear nature and would not give her grounds for rejection. It said it had been explained to Ms C that the dealer had one right to repair. Ms C stopped using the vehicle due to it not starting in October 2023. She reiterated her request to reject the vehicle.

Ms C brought her complaint to this service. She said she had found evidence the car had a problem since 2020. She said cleaning the DPF didn't solve the problem. She said Blue Motor knew the car history before they provided finance and now it doesn't want to revoke the agreement. She said Blue Motor would have to claim its money from the dealership and leave her out of it.

Our investigator initially concluded that the car wasn't of satisfactory quality at the point of supply and recommended that Ms C be allowed to reject the car. Blue Motor didn't agree. It said it hadn't been given a fair and reasonable opportunity to resolve any issues Ms C had with the car and that it had been taken to unauthorised garages. It said it had since cleared the DPF filter and the car was in full working order. As the dealer had used its one right to repair the vehicle and it was now in full working order the investigator didn't uphold the complaint.

Ms C didn't agree and asked for a decision from an ombudsman.

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 realise this will come as a disappointment to Ms C but having done so I agree with the conclusions reached by the investigator for the reasons I've outlined below.

I trust Ms C won't take it as a discourtesy that I've condensed the complaint in the way that I have. Ours is an informal dispute resolution service, and I've concentrated on what I

consider to be the crux of the complaint. Although I've read and considered the whole file, I'll keep my comments to what I think is relevant. If I don't comment on any specific point, it's not because I've not considered it but because I don't think I need to comment on it to reach the right outcome.

Ms C's agreement is a regulated consumer credit agreement, and our service can 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 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. 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 that might reasonably be expected on a used car. When it was supplied Ms C's car was eight years old and had travelled approximately 75,700 miles. So it would be reasonable to expect some wear and tear in its mechanical components.

Windscreen, tyres and boot cover:

Ms C first approached Blue Motor to reject the car in July due to a windscreen chip, deflating tyres and a torn boot cover. The dealer has said the chip wasn't present when the car was delivered and nor were the tyres deflating. It queried possible punctures. I'm not disputing Ms C's testimony, but I haven't seen any evidence that these issues were present or developing at the point of sale. I would expect Ms C to have noticed a chip on the windscreen when she was inspecting the car pre-sale. The MOT shows advisories on tyre wear, but these are advisories only and there's nothing to suggest the tyres were deflating.

Where the evidence is unclear or conflicts, I'll look at what's available and the surrounding circumstances – to decide what I think is most likely to have happened. And I'm not persuaded these issues were present or developing at the point of sale.

It's not disputed that the boot cover was torn. I've seen in the contact notes that the dealer said Ms C was aware of this at the time of purchase and it advised her there was nothing it could do other than tidy it up. It seems unlikely that the dealer would agree to fix something which couldn't be fixed.

So I'm not persuaded these issues meant the car wasn't of satisfactory quality.

DPF

I am however persuaded there was a fault with the vehicle. I've seen evidence from a garage and recovery service that there were issues with the DPF.

Ms C has said the DPF has a permanent fault and has provided evidence of this by way of a quote from September 2023 for a new exhaust system and DPF provided by a third-party garage, T. She has also provided the report from the recovery service which indicated a permanent failure of the DPF. She is adamant this evidence proves the car isn't fit for purpose, to the point where she is refusing to collect the car. I do understand Ms C's frustration as she has provided these reports in good faith.

Blue Motor has said the dealer has since repaired the vehicle at no cost to Ms C. The garage approved by the dealer was satisfied that the DPF needed cleaning out and not replacing. I've seen a copy of the work invoice, dated 23 November 2023

"Non start and DPF light coming on.

Replaced inlet actuator and cleaned out DPF. All okay."

Ms C has said she's being blamed for the DPF fault because of her driving style. It is the case that driving distance and frequency does affect how the DPF system operates and its regeneration but it's not possible for me to say with any degree of certainty whether the journeys Ms C was taking did or didn't affect the DPF. And the DPF is a serviceable item and degrades with wear and tear.

I'm persuaded there was a fault with the DPF, but it doesn't automatically follow that this means the car isn't of satisfactory quality. Even if I was satisfied this fault was present or developing at the point of sale and wasn't because of wear and tear, and I'm not sure I am, the problem is no longer present. The dealer has provided evidence the DPF has been cleaned out and the vehicle is in working order. The business is entitled to one chance of repair, and I'm satisfied it has done so.

Ms C is concerned because the garage she took the car to, T, has said the DPF had failed. In the contact notes there is an email from the dealer, dated 2 October, to Ms C. It says:

"we have spoken to T (in detail), they are the garage you took the car to, they confirm and agree that the DPF filter on your car just needs clearing. This is a common issue on some diesel cars and easily rectifiable. We have also confirmed with some (manufacturer) specialists who agree and we know from our own preparation and service team there was no fault with the car when you collected it."

I also see in the contact notes the dealer has said it spoke to:

"...some manufacturer's specialists (three of them) who all said the same thing – it's very likely that the car needs to be driven on longer distances to clear the DPF filter, no need to change any parts at all, that would be really unusual. I've also forwarded the quote to the Motoring Organisation for their technical department thoughts. Before we delivered the car we serviced and MOT'd it and there was no fault with the DPF, the readings were fine."

I've seen a copy of the pre-sale check list and the vehicle was signed off. I've also noted that the vehicle passed its MOT with advisories about tyres. As the dealer noted above, there were no issues with the emissions.

I've no reason to dispute the dealer's testimony that it spoke to T and other specialists. It is possible for problems to be misdiagnosed. And I'm persuaded the DPF hadn't failed but did need cleaning out. I'm satisfied that Blue Motor has had the opportunity to repair the car and I'm not persuaded it would be fair or reasonable for the business to allow Ms C to reject it.

Blue Motor has said the car had been left by Ms C at a third-party garage. It said as this garage was starting to charge daily storage charges, in the best interests of everybody, the dealer collected the vehicle and placed it on hold at a compound until a final decision. Ms C should contact Blue Motor/the dealer to arrange collection of the car.

Ms C has indicated that Blue Motor should sort the finance of the car out with the dealer and leave her out of it. Ms C signed the hire purchase agreement and is still bound by its terms and conditions. If she still doesn't want the car then she should contact Blue Motor to discuss what options are available to her to exit from the agreement.

My final decision

My final decision is I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C to accept or reject my decision before 1 January 2025.

Maxine Sutton
Ombudsman