

The complaint

Miss O is unhappy that a car supplied to her under a hire purchase agreement with Blue Motor Finance Ltd ('BMF') was of an unsatisfactory quality.

What happened

In May 2024, Miss O was supplied with a used car through a hire purchase agreement with BMF. She paid a £500 deposit, and the agreement was for £9,298 over 84 months with monthly payments of £196.98. At the time of supply, the car was just over seven years old and had done 69,965 miles.

Miss O says that a warning light came on the car a few days after it was supplied to her. She took the car back to the supplying dealership and they inspected the car on 10 June 2024, identifying an issue with the exhaust system. On 14 June 2024, Miss O took the car to another garage for a second opinion, and they also identified an exhaust system issue.

The car was repaired by the dealership on 15 July 2024, and it's my understanding that these repairs were successful. Miss O says that she didn't use the car between 14 June and 15 July 2024 – she didn't feel safe driving the car as it was emitting an excessive amount of smoke. She complained to BMF, asking to reject the car. However, BMF didn't uphold her complaint because (at the time) repairs had been agreed.

Miss O brought her complaint to the Financial Ombudsman Service for investigation. Our investigator said that the car wasn't of a satisfactory quality when it was supplied to Miss O, and repairing the car at no cost to her was a reasonable resolution. However, the investigator also said that BMF should refund Miss O one payment to compensate her for the period she was without use of the car, as well as pay her £150 for the distress and inconvenience she'd been caused.

BMF didn't agree with the investigator's opinion. They said that they don't guarantee a courtesy car in circumstances like this, and no courtesy car was available. They thought that the car was drivable while it was awaiting repair, as proven by the fact that Miss M drove the car to the dealership on the day it was booked in for repair. So, they didn't think any compensation should be paid.

Because BMF didn't agree, this matter has been passed 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.

Having done so, I've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome. Where evidence has been incomplete or contradictory, I've reached my view on the balance of probabilities – what I think is most likely to have happened given the available evidence and wider circumstances.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Miss O was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we're able to investigate complaints about it.

The Consumer Rights Act 2015 ('CRA') says, amongst other things, that the car should've been of a satisfactory quality when supplied. And if it wasn't, as the supplier of goods, BMF are responsible. What's satisfactory is determined by things such as what a reasonable person would consider satisfactory given the price, description, and other relevant circumstances. In a case like this, this would include things like the age and mileage at the time of sale, and the vehicle's history and its durability. Durability means that the components 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, it's assumed the fault was present when the car was supplied, unless BMF can show otherwise. So, if I thought the car was faulty when Miss O took possession of it, or that the car wasn't sufficiently durable, and this made the car not of a satisfactory quality, it'd be fair and reasonable to ask BMF to put this right.

In this instance, it's not disputed there was a problem with the exhaust system on the car supplied to Miss O, nor that this fault was present when the car was supplied to her. As such, I'm satisfied that this made the car of an unsatisfactory quality, and I don't need to consider the merits of this issue within my decision. Instead, I'll focus on what I think BMF should do to put things right.

Putting things right

Section 24(5) of the CRA says "*a consumer who has ... the right to reject may only exercise [this] and may only do so in one of these situations – (a) after one repair or replacement, the goods do not conform to contract.*" This is known as the single chance of repair. In this instance, the single chance at repair has taken place and was successful. As such, Miss O doesn't have the right to reject the car

The car was diagnosed with an issue with the exhaust system on 10 and 14 June 2024 and wasn't repaired until 15 July 2024. It's clear that the car was drivable between these dates (as Miss O was able to drive the car for repair) but what I need to consider is whether Miss O should've driven the car between these dates. I don't think she should, and I'll explain why.

The agreement Miss O signed required her to keep the car in good repair and condition. As I've said above, it's not disputed there was a fault with the car, and it was emitting an excess of smoke from the exhaust. Driving a car in this condition could risk additional damage (which BMF could reasonably hold Miss O responsible for), as well as the worry this would cause Miss O in driving a car that had a fault and could therefore potentially break down at any moment. As such, I'm satisfied she acted reasonably by not driving the car.

So, the car was reasonably not being driven between 14 June and 15 July 2024. During this period, Miss O wasn't supplied with a courtesy car. As such, she was paying for goods she was unable to use. As, for the reasons already stated, I'm satisfied the car was off the road due to it being of an unsatisfactory quality when it was supplied, and as BMF failed to keep Miss O mobile; I'm satisfied they should refund the payments she made during this period.

I also think Miss O should be compensated for the distress and inconvenience she was caused by the above. But crucially, this compensation must be fair and reasonable to both

parties, falling in line with our service's approach to awards of this nature, which is set out clearly on our website and so, is publicly available.

I note our investigator recommended BMF pay Miss O an additional £150, to recognise the distress and inconvenience she was caused. And having considered this recommendation, I think it's a fair one that falls in line with our service's approach and what I would've directed, had it not already been put forward. So, this is a payment I'm directing BMF to make.

Therefore, if they haven't already, BMF should:

- refund the equivalent to the payment Miss O paid between 14 June and 15 July 2024, when she had no reasonable use of the car;
- apply 8% simple yearly interest on this refund, calculated from the date Miss O made the payment to the date of the refund[†]; and
- pay Miss O an additional £150 to compensate her for the trouble and inconvenience caused by being supplied with a car that wasn't of a satisfactory quality (BMF must pay this compensation within 28 days of the date on which we tell them Miss O accepts my final decision. If they pay later than this date, BMF must also pay 8% simple yearly interest on the compensation from the deadline date for settlement to the date of payment[†]).

[†]If HM Revenue & Customs requires BMF to take off tax from this interest, BMF must give Miss O a certificate showing how much tax they've taken off if she asks for one.

My final decision

For the reasons explained, I uphold Miss O's complaint about Blue Motor Finance Ltd. And they are to follow my directions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss O to accept or reject my decision before 4 June 2025.

Andrew Burford
Ombudsman