

The complaint

Miss S complains that Blue Motor Finance Ltd supplied her with a car that wasn't of satisfactory quality under a hire purchase agreement.

What happened

In January 2023, Miss S acquired a used car financed by a hire purchase agreement from Blue Motor. The cash price of the car was £7,499. The car was around eight years old and had travelled around 88,000 miles. Miss S paid a deposit of £1,600 and the remainder was financed by the hire purchase agreement. She was required to pay 47 monthly repayments of £162.40 and a final payment of £172.40.

On the day Miss S collected the car, she drove home and found that the sunroof would not close. It was returned to the supplying dealership the following day who arranged to close the sunroof. However, it could not be properly repaired (although it was closed) and the dealership told Miss S to have repairs carried out by a specialist.

Soon after this Miss S says the car began having intermittent issues with the car. She paid for some diagnostics which indicated a turbo sensor fault, and later, she paid for spark plugs to be replaced. However, these did not resolve the problems with the car. Miss S contacted the supplying dealership for assistance, but they would not agree to cover the repairs or take the car back, so Miss S contacted Blue Motor in June 2023.

Blue Motor arranged for an independent inspection of the car which concluded that the issues with the turbo and sunroof were not present or developing at the time of supply. Blue Motor initially declined to cover any of the repair costs because of this, but Miss S disputed the findings of the report and provided some further evidence. Following receipt of this, Blue Motor agreed to cover the shortfall for the repair costs for the turbo (the majority was paid for by Miss S' warranty provider). Blue Motor also eventually agreed to cover the costs of the sunroof repair. It told Miss S that she would need to book it into a different specialist garage when the turbo repairs were complete.

I understand the repair was booked in with the specialist garage for the turbo in late July 2023 and Miss S collected the car in early November 2023. Miss S then told Blue Motor that she wanted to reject the car as she did not want to continue with lengthy repairs. Blue Motor didn't agree to the rejection.

I sent Blue Motor and Miss S my provisional decision on 28 November 2024. I explained why I thought the complaint should be upheld. I said:

Miss S acquired the car under a hire purchase agreement. Our service is able to consider complaints relating to these sorts of regulated consumer credit agreements. The Consumer Rights Act 2015 ("CRA") covers agreements like the one Miss S entered into and it implies terms into the agreement that the goods that are supplied are of satisfactory quality. Blue Motor is the "trader" for the purposes of the CRA and is responsible for dealing with a complaint about the quality of the car that was supplied.

The CRA says that the quality of the goods is satisfactory if they meet the standard a reasonable person would consider satisfactory – taking into account the description of the goods, the price and all other relevant circumstances. I think the other relevant circumstances here include the age and mileage of the car at the point of supply.

The car supplied was used, around 8 years old and had covered around 88,000 miles when Miss S took possession of it. It had a cash price of £7,499. What would be considered satisfactory would therefore be considerably different if Miss S had acquired the same car brand new and at a greater cost.

There doesn't appear to be a dispute that the turbo and sunroof were defective and that these made the car of unsatisfactory quality when it was supplied. The turbo has since been repaired and those repairs have been paid for by the warranty company and Blue Motor agreed to cover any shortfall. Blue Motor has also agreed to cover the repair costs for the sunroof. What is left for me to decide therefore is what, if anything, Blue Motor needs to do beyond what it has already agreed to do.

Miss S says she wants to reject the car. Having thought about that carefully, I'm not persuaded that would be fair or reasonable here. I'll explain why.

The CRA sets out that Blue Motor has one opportunity to repair any goods that are not of satisfactory quality. It has offered to do this by paying for repairs to be carried out. But Miss S has chosen not to take the car to a specialist in order for the sunroof to be repaired I can't therefore reasonably conclude that Blue Motor has unfairly deprived her of a repair.

I note Miss S says that she does not wish to be without the car for an extended period of time while any sunroof repairs are being carried out, especially as the turbo repair took a long time to complete. Although Miss S says the turbo repair took a long time and that this is partly why she now wishes to reject the car, I can't fairly say the delay in the turbo repair was down to Blue Motor.

The turbo repair was not instigated by Blue Motor. The garage that completed the work was not acting as Blue Motor's agent or on their instructions. Blue Motor simply agreed to cover any shortfall in the repair costs Miss S incurred from her own chosen garage. While the CRA sets out expectations on the trader that any repairs need to be completed within a reasonable time, the turbo repair wasn't carried out by Blue Motor or by anyone acting on its behalf. For that reason, I'm not persuaded those CRA provisions make any difference here.

However, the fact the car was of unsatisfactory quality ultimately led to Miss S not being able to drive the car while it was in for repair. And for that reason, I think it's fair and reasonable for Blue Motor to refund the three monthly repayments Miss S made in August, September and October 2023 (while the turbo was being repaired). This is because she did not have use of the car during this time, and I think it's unfair for her to pay for use she didn't receive. Her inability to drive the car was ultimately caused by the car being of unsatisfactory quality when it was supplied.

The CRA says that the trader has one attempt at a repair before Miss S has the right to reject the car. As I've said above, I'm not persuaded the turbo repair was done on Blue Motor's instructions. But even if it had been or could reasonably be counted as its first attempt at a repair, it appears that both the turbo and sunroof faults couldn't be fixed at the same garage. From everything Miss S has provided it seems the sunroof repair was a specialist job and would always have been needed to be completed at a different garage to the one that fixed the turbo.

I'm not persuaded that because of this it should be treated as more than one repair attempt under the CRA. I think its fair and reasonable to conclude, in the specific circumstances of this case, that Blue Motor has still not been able to exercise its right to repair the car. This is because Miss S has not taken the car to the specialist garage to attempt a repair to the sunroof, so the overall repair attempt has not been completed yet.

In addition to the above, I've also considered that while I accept there is a fault with the sunroof, it does not appear to impact Miss S' ability to use and drive the car. So, even if I'm wrong on my analysis of the CRA, I'm not persuaded that in the particular circumstances of this specific case, that this outstanding sunroof issue is significant enough to make rejection of the car a proportionate, fair and reasonable remedy. This is especially the case where no repair to the sunroof has been attempted due to Miss S choosing not to take the car in for repair.

Overall, I think Blue Motor's offer to cover the shortfall of the repair costs for the turbo and to cover the repair costs for the sunroof is a fair and reasonable way for it to remedy the faults with the car. However, as I've set out earlier in this decision, I think Miss S' losses extend beyond just having the faults repaired.

In addition to refunding the three monthly repayments while the car was in for repair, I'm satisfied that Miss S did not have trouble free motoring in the months leading up to the car breaking down.

She had intermittent problems with the car's turbo as well as other functionality issues linked to that fault. Her usage of the car was therefore impacted from at least March 2023. I therefore think it's fair and reasonable for Blue Motor to also refund 20% of each monthly repayment Miss S made from March 2023 to July 2023 (inclusive) to account for her impaired usage during this time.

As Miss S has paid sums to Blue Motor that she shouldn't have (due to impaired and/or no usage of the car) she has been deprived of the use of those payments elsewhere. I therefore think Blue Motor should also pay interest on those refunds calculated at 8% simple per year from the date Miss S made each payment to the date of settlement.

I note Miss S took her car in for two minor repairs prior to the car breaking down. However, I'm not persuaded that Blue Motor should cover the costs of those repairs. I say this because she did not inform Blue Motor of them before having them carried out, and it seems the repairs did not fix the underlying problem anyway. It seems the repairs may have been unnecessary or at least, ineffective. I don't think it would be fair to make Blue Motor pay for repairs that didn't fix the problem when it didn't know those repairs were being carried out.

Blue Motor didn't provide any response to my provisional decision. Miss S responded but didn't agree with the outcome I was planning to reach. In summary, she said that:

- She initially contacted Blue Motor in June 2023 to request rejection. Blue Motor initially didn't agree it was liable but later changed its mind.
- The delays for the turbo repair were not due to the repairs themselves. It was due to Blue Motor causing delays with paying the garage for the work.
- She did not agree to the proposed repairs to the sunroof. This was because they were only offered over 17 weeks after liability had been established. Blue Motor did not offer to arrange the repair themselves or agree to cover any costs in getting the repair completed.

- She considered that she should be allowed to reject the car, have her deposit returned and any adverse information removed from her credit file.

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 broadly the same outcome I reached in my provisional decision and for broadly the same reasons. However, I do agree with some of the further points Miss S has made concerning costs and her credit file. I'll address these as well as explaining why her additional points don't substantively change my overall outcome on her complaint.

While I accept that Miss S contacted Blue Motor in June 2023 to request a rejection, I don't think this means she was entitled to rejection at this point. As I said in my provisional decision, at this point Blue Motor was still entitled to attempt a repair, if it was established that the car was of unsatisfactory quality at the point of supply.

Based on what I've seen, I'm not persuaded that at the point Miss S contacted Blue Motor that it had been sufficiently established that the car was of unsatisfactory quality. There was very clearly a dispute and conflicting evidence as to whether the sunroof was faulty or whether Miss S (or her partner) had damaged it through carelessness. I accept Miss S felt very strongly about why the supplying dealer's comments about the sunroof were unreliable, but I don't accept that Blue Motor were at fault for taking those comments on board.

I note that it agreed to reverse this decision a few months later after repeated communications on the issue. One of Blue Motor's complaints team reached out to the garage Miss S had got a quote from for repairing the sunroof and it was following this conversation that it was confirmed that the sunroof must have already been faulty at the point of supply. Until that point, I don't think there was enough evidence to persuasively say that the sunroof was likely to have been of unsatisfactory quality, so I don't consider Blue Motor acted unreasonably in not agreeing to repairs prior to that point.

I note also it was Blue Motor that obtained the evidence to assist Miss S' case, by reaching out by phone to the garage Miss S had gone to. I'm mindful it wasn't Blue Motor's responsibility to provide evidence to support Miss S, but it did so anyway. I therefore don't think it's actions in relation to the sunroof repair were unfair or unreasonable.

Miss S says Blue Motor wasn't willing to cover her costs in arranging the repair (by this I assume she means travel and alternative transport) nor did it agree to arrange a repair itself. But from the correspondence I've seen, it seems to me Miss S had already decided that was the specialist garage she wanted to repair the car and was prepared to take it there. So, I don't think Blue Motor necessarily needed to offer her any alternative. However, I do accept that it would be unreasonable for Miss S to be paying for the car while it is in for repair. I therefore think Blue Motor should also give her a pro-rated refund of her monthly repayments for the length of time the car is in for repair for the sunroof. This means Miss S will only be paying for one means of transport during this time rather than two.

Regarding the turbo issue, at the time Miss S asked to reject the car, there was no persuasive evidence to show that the fault was pre-existing or made the car of unsatisfactory quality at the point of supply. While I accept Miss S contacted Blue Motor within six months, she says that she already had repairs carried out which Blue Motor had no prior knowledge of. So, I don't think it was unreasonable for Blue Motor to arrange for an inspection of the car before deciding whether to agree to any further repairs.

The inspection report concluded that the turbo issue would not have been present at the point of supply and did not make the car of unsatisfactory quality. On that basis I don't think Blue Motor acted unfairly in originally turning down Miss S' complaint. However, Miss S rightly pointed out why information in the report was factually inaccurate and therefore made the findings incorrect. This ultimately led to Blue Motor accepting that the report was unreliable and conceding that it could not therefore argue that the car was of satisfactory quality.

While I accept that process will have been frustrating for Miss S, I'm satisfied Blue Motor accepted responsibility for putting things right as soon as it became readily apparent that it needed to. I realise Miss S feels Blue Motor should have accepted liability over a month earlier, but for the reasons I've set out above, I don't think it needed to.

Miss S says that the delay in her receiving the car back wasn't due to the repair itself, but Blue Motor's delay in paying the garage. Having reviewed the available correspondence, while I agree there was some delay in the payment, this did not account for the full three months the car was in for repair. It seems to me that the repairs were not completed until around 14 September 2023. This is when the updated invoice from the garage was issued and Miss S emailed Blue Motor to say she was waiting for the warranty company to pay its agreed share.

On 18 September Miss S told Blue Motor that the warranty company had paid and she provided the garage's bank details the following day. Blue Motor told Miss S the next day that it needed an invoice addressed to them in order to initiate the payment. This is something Blue Motor had already told Miss S at the outset of agreeing to cover the costs in July 2023.

Almost two weeks later, Blue Motor chased Miss S for the invoice as it had not received anything. It seems that Blue Motor then contacted the garage directly to arrange the invoice and payment. There appears to have been some confusion between the two as to the amount that was owed. Blue Motor only paid around half of what it needed to. It isn't clear whether this was due to an error by Blue Motor or by the garage in what it sent. However, this did cause a delay of around four weeks until payment was made in full.

While I accept there was a delay in payment and this will have understandably caused Miss S concern that a similar situation might arise with the sunroof repair. It's clear to me the original delay with the payment was caused by Blue Motor not receiving the invoice in the correct format and it had made clear in advance what it needed to receive. While there was later some communication breakdown between Blue Motor and the garage, that doesn't mean a similar situation will arise between Blue Motor and the sunroof repair specialist.

I agree that Blue Motor appears to have contributed towards that delay in the payment being made (as I've said around 4 weeks). But I consider refunding the monthly repayments while Miss S didn't have the car to adequately compensate her for this delay. This ensures she isn't paying for a car she couldn't use.

Miss S says that her credit file shouldn't be adversely impacted. I'm minded to agree that for the months that she was without the car – August to October – it wouldn't be fair for Blue Motor to report adverse information on her credit file for any payment difficulties she might have faced. This is because she was required to pay Blue Motor while also paying for alternative transport, something she shouldn't have needed to do if the car had been of satisfactory quality. Therefore any difficulty she might have had in paying Blue Motor was likely as a result of the car being of unsatisfactory quality, rather than an inability to pay what was contractually agreed.

My final decision

For the reasons given above, I uphold this complaint and direct Blue Motor Finance Ltd to:

- Refund three monthly repayments for the time Miss S was without the car while it was being repaired for the turbo between August 2023 and October 2023.
- Refund 20% of each monthly repayment between March 2023 and July 2023 for the impaired usage Miss S had of the car.
- If Miss S has the sunroof repaired, a pro-rated refund of any monthly repayments she pays while the car is in for repair.
- Pay 8% simple interest per year on each of the above refunds from the date of each payment to the date of settlement.
- Remove any adverse information that may have been recorded on her credit file between August 2023 and October 2023 (inclusive).

If Blue Motor considers tax should be deducted from the interest element of my award, it should provide Miss S with a certificate showing how much it has taken off so she can reclaim that amount, if she is eligible to do so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 28 January 2025.

Tero Hiltunen
Ombudsman