

The complaint

Mr A complains that the car he acquired through a hire purchase agreement with Blue Motor Finance Ltd was mis-sold. He wants the outstanding balance on the agreement to be written off and any adverse information removed from his credit file.

What happened

Mr A entered into a hire purchase agreement with Blue Motor Finance in November 2016 to finance the acquisition of a car. The total amount repayable under the agreement was £12,644.22 and the agreement term was 49 months. Mr A was required to make monthly repayments of around £255.

Mr A said that the agreement was mis-sold. He said that when he visited the dealer, he hadn't intended to acquire a car but was pressured into taking a car for a test drive. He said he had suffered a bereavement shortly before and this had affected his mental and physical health and his ability to make sound decisions. Mr A said that at the time he was provided with the agreement he had a bad credit score with defaults and missed payments recorded on his credit file. He said his income at the time wasn't enough to support the repayments and that he needed to take time off work due to his health which affected his wages. Mr A also said that he experienced issues with the car and that the repairs were not of satisfactory quality and that he hasn't been provided with the service he should have been when he has raised his issues.

Blue Motor Finance issued a final response dated 28 May 2024. It said that when Mr A applied for finance, he said he was living with his parents and had an annual income of £21,600. It explained that it used credit reference agency data to check creditworthiness and affordability and that Mr A's credit check didn't raise any concerns.

Blue Motor Finance said that Mr A notified it in November 2017 that he hadn't received the wages he had expected, and he requested a refund of his instalment, so he was able to satisfy other outstanding bills, and this was completed. Mr A also requested an early settlement figure around this time as his car had been classed as a category N by his insurance company and the payment made by the insurance company wasn't enough to cover the outstanding balance. Mr A then called in May 2018 and confirmed that he was experiencing mental health issues that he didn't think Blue Motor had taken this into account. Blue Motor Finance asked for further evidence to be provided but said this wasn't submitted.

Blue Motor Finance didn't uphold Mr A's complaint and Mr A referred his complaint to this service. Blue Motor Finance consented to us considering the merits of all the complaint points raised.

Our investigator didn't think there was evidence to show that Mr A didn't have the mental capacity to enter the finance agreement or that he had been pressured into this. She also didn't think the evidence was sufficient to show the car wasn't of satisfactory quality at supply. Our investigator noted Mr A's complaint about the lending being irresponsible, but she thought the checks carried out before the finance was provided were proportionate and as these suggested the lending to be affordable, she didn't think that Blue Motor Finance

was wrong to provide the agreement.

Our investigator then considered what Mr A had been treated unfairly in any other way. She noted the payment made when the car was written off wasn't enough to clear the outstanding balance. She noted the Mr A made some payments towards the outstanding balance but then stopped and the account had been in arrears since then and had continued to accrue interest. Our investigator said it was fair that Mr A was liable for the outstanding balance, but she thought that his account should have been defaulted rather than continuing to accrue interest. Therefore, she said that Mr A's credit file should be amended to reflect a default being applied four months after the last payment was made and for interest to not be accrued from three months after the last payment was made.

Mr A didn't agree with our investigator's view. He didn't feel that his mental health and the impact this finance had had on him had been fully considered.

As a resolution hasn't been agreed, this complaint has been passed to me, an ombudsman, to issue a decision.

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.

Mr A acquired a car through a hire purchase agreement with Blue Motor Finance. He has said the car was mis-sold and has raised several issues in support of his complaint and while I may not have commented on every point raised, I can assure Mr A that I have considered all the evidence provided. I have set out my conclusions to the issues raised below and my reasoning for these.

Sales process and mental capacity

I have considered Mr A's testimony about his visit to the dealer and that it wasn't his intention to acquire a car, but he felt pressured into this. I understand the point he has made about his capacity to make sound decisions at the time, and I am sorry to hear of the family bereavement he had suffered and his ongoing mental health issues. However, for me to uphold this part of his complaint, I would need to be satisfied that the dealer was aware or should have been reasonably aware that Mr A wasn't able to make an informed decision or that there was evidence that Mr A had been unfairly pressured into the agreement.

Mr A has said that he explained his circumstances to the dealer but unfortunately there is no further evidence of this. I note Mr A took the car for a test drive and so he was given a reasonable opportunity to assess the car and its suitability for him. I also note that had Mr A felt pressured into the agreement he could have withdrawn from this within the first 14 days.

I have looked through Blue Motor Finance's contact notes and these do not show that Mr A raised any concerns about the car being mis-sold at the time or feeling pressured into the agreement in the months following the acquisition. Mr A did contact Blue Motor Finance about other issues, and I think it reasonable that had he felt the car had been mis-sold he would have raised this at the time.

Therefore, while I have taken into consideration Mr A's testimony, I do not find I have enough evidence to uphold this part of Mr A's complaint.

Car not of satisfactory quality

Under the regulations, Blue Motor Finance can, in certain circumstances, be held liable if the car supplied is not of satisfactory quality. Mr A has said that he experienced issues when he needed repairs to the car. He said that he was told he could have a new clutch fitted but after this had happened there were still issues. He also said that the car was scratched while in for repair.

I can understand why Mr A was upset with the issues with his car. Based on the evidence provided it appears that repairs were undertaken with the clutch and flywheel being changed. However, a few weeks later the car needed to be checked as there were still issues and the clutch and flywheel needed to be changed again. The issue with the repairs was raised with Blue Motor Finance in August 2017. As this was more than six months after the car had been acquired, I find it reasonable that Blue Motor Finance initially asked for evidence to be provided of the faults and to show these were present at the point of supply. However, following contact with the dealer Blue Motor Finance said that the dealer was prepared to assist Mr A. While I note the comments Mr A has made about this, I cannot see that he contacted Blue Motor Finance again about this issue. The car was then written off in December 2017.

In this case, I do not find I have enough evidence to say that the car supplied wasn't of satisfactory quality. While I note repairs were needed shortly after acquisition and I have considered Mr A's comments about the repairs, I do not find in this case I have enough to say that this is something Blue Motor Finance should be liable for.

Irresponsible lending

Our general approach to complaints about unaffordable or irresponsible lending – including the key rules, guidance and good industry practice – is set out on our website.

The rules don't set out any specific checks which must be completed to assess creditworthiness. But while it is down to the firm to decide what specific checks it wishes to carry out, these should be reasonable and proportionate to the type and amount of credit being provided, the length of the term, the frequency and amount of the repayments, and the total cost of the credit.

Before the agreement was provided, Blue Motor Finance gathered information about Mr A's employment, income and residential status. Mr A said he was employed with a monthly income of £1,800 and was living with parents. A credit check was carried out which didn't show any recent issues with how Mr A was managing his commitments. His credit check didn't suggest Mr A was overindebted. Considering the repayments due under the agreement compared to Mr A's income and noting the results of his credit check, I find the checks carried out before the agreement was provided were proportionate. As these didn't raise concerns about the agreement being unaffordable, I do not find I can uphold this part of the complaint.

Support, service and other actions

I am sorry to hear that Mr A feels his circumstances, particularly his mental health, haven't been taken into consideration by Blue Motor Finance and I can understand why he is upset as he feels he hasn't been supported when he has asked for help. I have looked through the contact notes and can see that when Mr A contacted Blue Motor Finance in November 2017 about his payment being taken but due to his wages being lower than expected he couldn't afford his other bills, Blue Motor Finance assisted him by providing a refund.

Mr A's car was written off in December 2017. A payment was made by the insurance company, but this wasn't enough to repay the outstanding finance. Mr A made four further

payments but then stopped paying. As an outstanding balance remained on the account, Blue Motor Finance tried to contact Mr A, however this wasn't successful. Mr A informed Blue Motor Finance about his mental health issues when discussing his account on a call in May 2018.

While I do not find that Blue Motor Finance was wrong to say that Mr A was liable for the remaining balance on the finance after the insurance payment had been received, I think that given Mr A stopped making payments and stopped engaging with Blue Motor Finance, that it should have taken action at the time to default the account. Mr A advised Blue Motor Finance of his health issues and I think continuing to add interest to his account rather than proceeding to a default would have added to his difficulties.

Therefore, I agree with our investigator that Blue Motor Finance should have taken action to default Mr A's account when he had stopped making payments and wasn't responding to its contact.

Putting things right

Blue Motor Finance should:

- Amend Mr A's account so he is not liable for further interest on the debt for more than three months after the last payment was made by him.
- Amend Mr A's credit file to show the account as having defaulted four months after he ceased making payments.

As Mr A still remains liable for the shortfall due, I would remind Blue Motor Finance of its duties and responsibilities when taking steps to recover the amount still due. Mr A may also wish to contact Blue Motor Finance to make an arrangement to clear the outstanding debt.

My final decision

My final decision is that Blue Motor Finance Ltd should, as it has agreed, take the actions set out above in resolution of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 5 May 2025.

Jane Archer
Ombudsman