

The complaint

Miss G is complaining about the quality of a vehicle supplied to her by Blue Motor Finance Ltd (BMF).

What happened

In August 2023, Miss G acquired a vehicle via a hire purchase agreement with BMF. She paid a cash deposit of £100 and borrowed £9,030 – the cash price of the vehicle was £9,130. The agreement required Miss G to make payments of around £230 per month. The car was first registered in May 2015, and it had done just over 44,000 miles by the time Miss G acquired it.

Miss G had problems with the car straight away. She contacted the dealership and made an appointment to repair the car. The dealership had the car for 18 days and then returned it to Miss G. A few days later, several warning lights came on and Miss G called her breakdown recovery service again. After diagnostic tests, they said the car wasn't safe to drive, and towed it to the dealership. Miss G called BMF and told them what had been going on. The dealership repaired the car again and returned it to Miss G, but she encountered more problems a few days later.

This time, in early December 2023, instead of getting the car repaired again Miss G complained to BMF – saying she wanted to reject it.

BMF arranged for an inspection of the vehicle and then responded to Miss G's complaint. They said the inspection report detailed several issues:

- There was a leak in the exhaust which meant fumes were entering the cabin. BMF said the car wouldn't have passed an MOT with this issue and therefore it couldn't have been present at the point of sale.
- Clutch operation was poor – the clutch components were nearing the end of their life and would require replacement in the next 5,000 miles or so. BMF said this was classed as general maintenance and not the responsibility of the sales agent.
- There was a metallic ticking consistent with timing chain chatter and the engine lacked power occasionally. They said both of these issues are consistent with a partially blocked Diesel Particulate Filter (DPF) – but this is a routine maintenance issue and again not the responsibility of the sales agent.
- BMF also said the inspection had found four fault codes when carrying out live electronic diagnostics.

In summary, BMF didn't uphold Miss G's complaint – they said the current faults would be considered general maintenance and there was no evidence to suggest they were the result of a failed repair.

Miss G was unhappy with BMF's response and brought her complaint to our service where one of our investigators looked into it. Our investigator's view was that the car remained of

unsatisfactory quality after BMF had already made attempts to put things right - and therefore Miss G had the right to reject the car.

BMF didn't accept our investigator's view. They said:

- a recurrence in fault codes doesn't indicate a failure of repairs. The fault code is an indication of a fault, and not a fault in itself;
- our investigator assumed that Miss G should have been able to use the clutch for longer prior to experiencing problems but it was possible that the issues were due to her misuse of the clutch; and
- our investigator had overlooked the fact that the vehicle was a used vehicle and had travelled much further than the 4,000 miles driven by Miss G. So the DPF would have been in use prior to Miss G acquiring the car and also the blockage could have been caused by Miss G making repeated short journeys.

As no agreement could be reached, the matter was passed to me for a decision.

I issued a provisional decision on 30 January 2025, explaining that I was upholding the complaint for similar reasons to our investigator, but with some differences. In that provisional decision, I said:

The agreement in this case is a regulated consumer credit agreement. As such, this service is able to consider complaints relating to it. BMF were the supplier of the goods under this agreement and are therefore responsible for a complaint about their quality.

The Consumer Rights Act 2015 (CRA) is of particular relevance to this complaint. It says that under a contract to supply goods, there is an implied term that "the quality of the goods is satisfactory". To be considered satisfactory, the CRA says the goods need to meet the standard that a reasonable person would consider satisfactory, taking into account any description of the goods, the price and other relevant circumstances.

In addition, the CRA says that goods which don't conform to the contract at any time within the first six months after delivery must be assumed not to have conformed to the contract at delivery – unless this is incompatible with the nature of the goods or with how they fail to conform.

The CRA also says that a consumer has the right to reject goods if after one repair, the goods do not conform to the contract.

What would a reasonable person expect?

BMF supplied Miss G with a car that was over eight years old and had travelled over 44,000 miles. And the price of the car was significantly lower than it would have been if it had been supplied new. So, it's fair to say a reasonable person would expect parts of the car might have already suffered some wear and tear. But the car had relatively low mileage for its age. And it was priced relatively highly for its age and mileage, so I think a reasonable person would expect the vehicle to run for at least six months and several thousand miles before encountering any significant problems.

What faults have arisen with the car?

From the information provided I'm persuaded there were several faults with the car. I've considered Miss G's testimony, the reports from the breakdown recovery service, BMF's notes from their contact with Miss G from 6 December 2023 to 15 January 2024 and the report BMF provided from their inspection.

From these various pieces of evidence I'm persuaded that:

- The car has previously had issues with the injectors, brake pads, and rear door closure, all of which were successfully repaired.*
- Diagnostic report error messages from late September, October, and early December all noted "voltage too low" and "CAN communication with the system cruise control faulty" – these issues appear to be ongoing.*
- BMF's inspection in early January identified significant problems with the clutch, DPF and exhaust. These issues are also ongoing.*

Was the vehicle in satisfactory condition at the time of supply?

The problems with the exhaust appear to be due to a clamp becoming loose. I'm satisfied it's unlikely the vehicle would have passed its MOT test if the problem was present at the point of supply. There's also no indication of this issue in the first or second diagnostic report. I'm persuaded, given the nature of the problem, it's likely the problem developed since.

In rejecting our investigator's view, BMF said it was entirely plausible that the issues with the clutch and DPF were caused by Miss G's driving. But they've provided no evidence that that was the case. And, as I've explained above, the CRA suggests unless there's evidence to the contrary, I should assume that goods which aren't in satisfactory condition within 6 months of supply weren't in satisfactory condition at the time of supply.

Miss G drove the car around 4,000 miles before December 2023. This isn't a level of mileage which I'd expect to cause significant damage to the clutch or significant blockage of the DPF. Taking this together with the repeated diagnostic error messages, and Miss G's testimony that she hadn't noticed any change in the clutch operation during the time she'd had the car, I'm satisfied the faults that were present in December 2023 were either present or underlying when Miss G acquired the car. It follows I don't think the car was in satisfactory condition at the time of supply.

Right to reject

Miss G has sought to have the car repaired by the original dealership twice. We don't have evidence of what repairs were undertaken but what is clear is that some of the fault codes were repeated through September, October, December and January. And the car remains of unsatisfactory quality. As I set out above, the CRA says that a customer has the right to reject goods if after one repair, the goods still don't conform to the contract. In Miss G's case, the car has been repaired twice and remained in unsatisfactory condition. It follows I'm satisfied Miss G has the right to reject the car.

Miss G accepted my decision, and BMF didn't reply, except to chase up closure of the case.

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.

As I've received no comments on or objections to my provisional decision, my thoughts are unchanged from those set out above and I'm upholding Miss G's complaint.

Putting things right

Miss G clearly sought to reject the car in December 2023. She informed BMF of the problems promptly and has told us she hasn't driven the car much since. So our investigator said Miss G should get back everything she's paid towards the car since 11 December 2023 and the payments she made in respect of the 19 days for which the car was at the dealership for repairs.

However, Miss G has sent us a photo of her odometer in January 2025, which shows she'd driven around 3,000 miles since December 2023. And it's fair she pays for the use she did have of the vehicle. Before the vehicle failed, Miss G was driving around 1,000 miles per month – so 3,000 miles represents around three months' worth of use. Miss G's told us at least some of those miles were just taking the car around the block to keep it running, so it wouldn't be fair that she pay for the full three months. But I also wouldn't expect that to account for 3,000 miles of use. And she has told us she used the car to get to and from work on occasion. In summary I've decided Miss G should get back everything she's paid towards the car since 11 February 2024 – reflecting two months' worth of use beyond her rejection of the car in December 2023.

In addition, Miss G has suffered considerable upset as a result of the issues with the car. She's made numerous calls to BMF and had to call a breakdown recovery provider three times. She's had to miss work and rearrange her shifts as she couldn't drive this car. And the whole experience has understandably been very frustrating. So BMF need to compensate Miss G for this and I'm comfortable £250 is a fair amount to reflect the distress and inconvenience she's suffered.

So my decision is that BMF need to take the following steps:

- End the agreement with nothing further to pay and collect the car at no further cost to Miss G;
- Refund the deposit of £100 that Miss G paid (if any part of this deposit is made up of funds paid through a dealer contribution, BMF is entitled to retain that proportion of the deposit);
- Refund any payments Miss G made in relation to the 19 days the vehicle was at the dealership for repairs, and in relation to the period from 11 February 2024 onwards;
- Pay Miss G 8% simple interest* per year on all refunds, calculated from the date of each payment to the date of settlement;
- Remove any adverse information relating to the agreement from Miss G's credit file; and
- Pay Miss G £250 to reflect the distress and inconvenience caused by the faulty goods.

*If BMF consider tax should be deducted from the interest element of my award they should tell Miss G how much they've taken off. They should also provide Miss G a certificate showing how much they've taken off if she asks for one so that Miss G can reclaim that amount if she is eligible to do so.

My final decision

I'm upholding Miss G's complaint. Blue Motor Finance Ltd trading as BMF need to take the steps I've outlined above to resolve the matter.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss G to accept or reject my decision before 17 March 2025.

Clare King
Ombudsman