

The complaint

Miss O complains Blue Motor Finance Ltd (“BMF”) treated her unfairly when selling a car she acquired under a hire purchase agreement.

What happened

In 2020, Miss O made a previous complaint to our service about her hire purchase agreement as she didn’t feel she should be held responsible for it given the circumstances surrounding how that agreement came about. An Ombudsman issued a final decision, finding that Miss O remained responsible for any outstanding balance due under the agreement, but that BMF should consider any remaining debt and work with Miss O to find a fair and suitable repayment arrangement.

That decision also confirmed the affordability of the agreement and that Miss O was aware of the agreement being set up in her name by her ex-partner.

I can’t comment on that complaint, as it had an Ombudsman’s decision on it and Miss O said she understands this. But Miss O remains unhappy with BMF’s actions when selling the car in 2023. Specifically, Miss O says:

- The price achieved by BMF when selling the car at auction in 2023 for £3,868 was unfair,
- BMF should have allowed Miss O to sell the car herself, giving her the chance to get a better sale price,
- BMF ought to have written off the outstanding amount due under the hire agreement which, after deducting the proceeds of the auction of the car, is currently £10,546.62.

BMF didn’t respond to the above points as they’ve repeatedly said Miss O’s complaint has already been looked into when the Ombudsman reached their decision 2020. Additionally, BMF said they trust their auction house to achieve the best possible price when they sold the car.

Our Investigator explained the above three points hadn’t been answered and asked BMF on more than one occasion for their response to these. As BMF didn’t provide what our Investigator needed, she issued her view based on the available information.

As a result, our Investigator upheld Miss O’s complaint and in summary, she said it didn’t look like BMF had acted fairly when they sold the car at auction. Our Investigator used several valuation tools to look at the value of the car at the time it was sold and found it could have been sold for £9,825 at auction or around £12,400 at an independent sale. However, BMF sold the car for £3,868 which was considerably less. And without any information from BMF to explain this significant difference in price, our Investigator didn’t think the sale price achieved for the car was fair based on the information available.

Our Investigator also said BMF hadn’t provided any information on what happened to the remaining amount or why Miss O hasn’t been contacted since 2023 regarding payment due. So, she couldn’t assess whether BMF had written off the debt. Our Investigator said because

the sale price achieved for the car wasn't fair, and as BMF hadn't engaged with Miss O since 2023 causing this issue to go on for two years, nor provided her with any kind of support in relation to this, causing Miss O distress and inconvenience for a long period of time, our Investigator recommended BMF write off any outstanding amount due under the agreement (if there was one outstanding) and report the agreement as 'settled' on Miss O's credit file from February 2023.

Miss O accepted our Investigator's view, but BMF didn't. They referred back to the previous Ombudsman's decision with our service and said the re-investigation of this complaint, resulting in reaching a different outcome, was highly unusual. Additionally, BMF said Miss O signed and agreed to voluntarily surrender the car and the terms and conditions of this. BMF included the terms of the agreement which said:

- BMF may sell the vehicle for the most reasonable price without further notice to you,
- Upon selling of the vehicle, BMF will retain the net sale proceeds and then apply them to your account
- You are liable for any of the remaining balance after the proceeds of the sale of the vehicle have been applied. If you are or become subject to insolvency proceedings, however, we will notify your appointed receiver to take the appropriate action.
- Your credit file may be adversely affected, which may make it difficult for you to obtain credit in the future.

BMF also said the sale of the car was done at an open auction, subject to market fluctuations and they don't influence what the car may sell for. BMF said the sale of the car had reduced the outstanding amount owed, so they said they thought they'd done something to assist Miss O. BMF said they spoke to Miss O on two occasions on 10 February 2023 and there were further communications with her in the same month. BMF said at no point had they agreed to wipe Miss O's debt. BMF questioned how our Investigator was able to reach an outcome without BMF's file. BMF also provided a breakdown of the account showing there's still around £10,546.62 left to pay under the agreement and no payments had been made.

As an agreement couldn't be reached, the complaint has been passed to me to decide. My understanding, based on all the evidence I've seen, is that no default has been applied to Miss O's account. If a default has been applied, I don't think this materially impacts the outcome I've reached.

I issued a provisional decision on the matter, setting out the below:

I have already set out in the background of this complaint the outcome of the previous Ombudsman's decision. I note BMF have raised concerns about us considering this complaint, suggesting it relates to the same matters already decided.

I've also noted that at every opportunity BMF have chosen not to engage with our service – so it seems to me if they had actually listened to what our Investigator was telling them, they'd have realised we were looking at a different complaint. For further clarity, I'm satisfied Miss O's complaint here concerns BMF's actions after that decision – not the issues previously decided on. I have considered the following points:

- *Should BMF have allowed Miss O to sell the car herself?*
- *Was a fair price achieved by BMF when selling the car at auction?*
- *Should BMF have written off the outstanding amount due under the hire agreement? If not, what should BMF have done.*

It's clear none of these complaint points could have been addressed in the previous Ombudsman's decision – because they all happened after that decision was issued.

Should BMF have allowed Miss O to sell the car herself?

BMF have said Miss O agreed to voluntarily surrender the car after it was recovered by the police. BMF say Miss O agreed to the terms when voluntarily surrendering which allowed BMF to sell the car.

Additionally, Miss O entered into a hire purchase agreement which typically means the ownership of the car remained with BMF. Miss O wouldn't have been able to sell the car without permission until she'd made all the payments due under the agreement, resulting in her owning the car. So, for these reasons, I don't think it's unfair BMF didn't allow Miss O to sell the car.

Was a fair price achieved by BMF when selling the car at auction?

After several requests, BMF eventually provided us with an inspection report that was done on the car when it was collected. The report notes three damages to the car – a crack on the windscreen, a smashed wing mirror and a scratch on the rear side panel of the car. Having carefully looked at this, I don't think two of the damages are very clear. The crack on the windscreen isn't clear to me, it's just simply a line on a glass and it's been zoomed in quite closely, showing a reflection of the surrounding area on the glass. Also, the scratch on the rear side panel of the car isn't visible at all in the photos.

While I can see there's damage to the wing mirror of the car and that the report considers the car as not roadworthy, I don't think a replacement of the mirror and this condition of the car would have amounted to such a price reduction at auction.

I note there's a discrepancy as to what the mileage of the car was at the point it was sold at auction – the pictures in the inspection report shows the mileage on the odometer as over 121,000 miles. But the MOT history shows the car had done 90,167 miles in November 2021 and 91,645 miles in July 2023 – six months after the sale. With all things considered, I find the MOT history more persuasive as these MOTs would have been carried out by MOT centres and there's nothing to suggest the mileages recorded in these tests are wrong.

With that said, I've next gone on to think about whether BMF treated Miss O fairly when selling the car at auction, taking into account the above information about the car at the time.

I think the relevant rule here is CONC 7.3.2 which says:

“When dealing with customers in or approaching arrears or in default, a firm should pay due regard to its obligations under Principle 12 (Consumer Duty) and PRIN 2A, or Principle 6 (Customers' interests), as applicable.”

Principle 6 requires that “a firm must pay due regard to the interests of its customers and treat them fairly”.

In the context of this case, while it's expected that a car sold at auction may achieve a lower price than a private sale, I consider BMF had a responsibility to take reasonable steps to achieve a fair price. This is because the sale price directly affected the outstanding balance Miss O remained liable for. I don't think it's unreasonable to expect BMF to act in Miss O's best interest by maximising the sale proceeds to reduce the debt she owed. Additionally, BMF's terms also say they will sell the car for the most reasonable price obtainable.

I've reviewed the independent valuation evidence of the car, taking into account the mileage

at the time being roughly around 91,000 miles, based on the MOT history. One valuation report showed the cars independent retail price at £12,945. Another valuation suggested a likely sale price of £9,825 at auction or around £12,400 at an independent sale. I've also carried out a valuation of the car based on the mileage of the odometer being over 121,000 and this shows the auction price of the car would have been around £5,900.

BMF sold the car for around £3,800 which is significantly lower than either of the independent valuations. Even if I was to accept the damage caused to the car and the odometer reading being over 120,000, I don't think the price the car was sold for was the most reasonable price obtainable due to it being significantly less than the valuation amounts I've mentioned above. With all things considered, I think the fairer price to consider here would be the likely sale price of around £9,825.

Having looked at the payment history of the account provided by BMF, it shows at the point in which the car was sold, there was an outstanding balance of £14,414.62 left to pay under the agreement. Had BMF got the likely sale price of around £9,825, this would have left Miss O with £4,589 outstanding rather than the £10,546.62 that BMF are holding Miss O liable for.

Should BMF have written off the outstanding amount due under the hire agreement? If not, what should BMF have done.

Miss O says she asked BMF in February 2023 if the outstanding amount could be written off after the car had been sold at auction, in line with the previous Ombudsman's suggestion.

Having read that Ombudsman's decision, it didn't make a recommendation for BMF to write off the outstanding balance. Instead, the decision said "BMF have a responsibility to treat Miss O's financial circumstances with forbearance and due consideration. This means BMF should look at any balance outstanding under the hire purchase agreement and work with Miss O to find a fair and suitable repayment arrangement. But, having considered everything, I think BMF's suggestion is fair and reasonable as it will allow her to reduce the arrears owed under the agreement and then enter into discussions about any remaining balance." The Ombudsman also said Miss O remained responsible for repayments due under the agreement. It was BMF who said in January 2022, in the context of Miss O's other complaint, that once the car had been recovered, they'd consider writing off the outstanding balance. But BMF didn't do this. So, I've gone on to consider whether BMF should have done anything differently when not writing off the outstanding amount.

Miss O says she hasn't heard from BMF since 2023 regarding any outstanding payment due under the agreement which is consistent with what BMF told us – that they spoke to Miss O in February 2023. BMF provided their records to show they sent Miss O notice of sums in arrears in February 2023, July 2023, December 2023, May 2024, October 2024 and March 2025. But they haven't sent me copies of these notices and Miss O says she never received these.

In any case, I haven't seen any evidence BMF did what the Ombudsman suggested in their decision which was to work with Miss O to find a fair and suitable repayment arrangement for any outstanding balance once they sold the car. I don't consider sending Miss O notice of sums in arrears as acting in line with what the Ombudsman said.

At the same time, Miss O says once she stopped hearing from BMF in March 2023 – where she contacted them to ask for all the information they had about her and the agreement, she assumed they were no longer pursuing her for the outstanding amount or that the matter was on hold. Miss O didn't get in touch with BMF after this point.

While I acknowledge BMF may not have acted as they should, and that Miss O said

repayments became unmanageable following the end of her arrangement with her ex-partner, it appears that neither she nor BMF engaged effectively with one another about the outstanding balance.

When thinking about what should have happened here, I think BMF should have done something sooner about the arrears on the account. The Information Commissioner's Office (ICO) says when a consumer is at least three months behind with their payments then a default may be registered. And it would expect a default to be registered by the time the consumer is six months behind with their payments.

The payment history shows Miss O was three months in arrears by 22 April 2020 and Miss O's credit file that she sent us shows the agreement was three months in arrears by April 2020. I consider this to be the earliest point at which BMF should have defaulted the account. Accordingly, I think BMF should record a default for the account dated 22 April 2020.

Backdating the default means it will remain on Miss O's credit file until around April or May 2026, after which it will be removed. This is preferable to BMF applying a default later, which in theory they could decide to do, meaning it will remain on Miss O's credit file for six years from whenever they decide to do this. While Miss O has so far benefitted from not having a default recorded for the last five years, backdating it ensures the entry reflects the correct timing. I appreciate this recommendation may be disappointing for Miss O, but I hope it reassures her that the impact on her credit file will end in April or May 2026.

Additionally, it's worth noting that BMF won't be able to default this account again, as an account can only be defaulted once.

Even after the default ends, the account will remain on Miss O's credit file. I think there is still an outstanding balance due and I haven't seen any evidence to persuade me at this point the outstanding balance should be cleared. Additionally, the previous Ombudsman decided Miss O remained responsible for the repayments due under the agreement. However, as explained, I think the outstanding balance due should be £4,589 and not the £10,546.62 BMF say is outstanding. Given Miss O's circumstances, I think it's fair for BMF to enter into a payment arrangement with Miss O for this amount and it's in Miss O's best interest to engage with BMF on this.

Ordinarily, because I don't think BMF have dealt with things properly, I would usually consider an award for distress and inconvenience caused to Miss O. But I'm conscious BMF haven't really engaged with Miss O or chased her for payment under the agreement. And likewise, Miss O hasn't really engaged with BMF about the outstanding amount. So, in this case I think there's been a minimal impact to Miss O.

Putting things right

I currently require BMF to:

- Default the account (if this hasn't been done so already) and backdate it to April 2020,
- Reduce the amount outstanding under the agreement from £10,546.62 to £4,589,
- Work with Miss O on a suitable repayment arrangement for the £4,589 that will be outstanding.

Responses to my provisional decision

BMF responded to my provisional decision and said the car was actually sold for £4,900 and not £3,868 as there were additional costs for both collecting and selling the car which had to be taken off the sale price – BMF said these additional costs were around £1,000. BMF also said the car was not roadworthy, which alongside the cosmetic damage, would affect the price the car sells for. BMF said no one would have bid for the car if it was sold for £9,825.00, as suggested in my decision.

BMF pointed to the mileage of the car and said it was incorrect – they said the photo of the odometer in the inspection report showed the car had done 121,393 miles, which would have affected the resale value.

Lastly, BMF agreed to backdate the default as I recommended and they said they'd engage with Miss O to come to an affordable repayment arrangement for the outstanding amount. BMF asked that we check Miss O's details are up to date so they're able to comply with my recommendation.

Miss O responded and said she didn't have anything further to add.

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've carefully considered what BMF said about the selling price of the car and what aspects would have affected the price. I understand the inspection report says the car wasn't roadworthy, but it doesn't go into detail as to why it wasn't roadworthy - it could be down to the broken wing mirror which I think could render the car as not roadworthy given the damage obstructs the driver's view due to the smashed glass. Even with that considered, I'm not persuaded BMF acted fairly when selling Miss O's car at auction. And my opinion remains that the outstanding balance Miss O is responsible for is £4,589 and not £10,546.62.

I noted the mileage reported in the odometer reading of the car was over 121,000. But as explained in my provisional decision, the MOT history done on the car six months after the car was sold, shows the car had done 91,645 miles in July 2023. Given the MOT would have been carried out by an MOT centre and there's nothing to suggest the mileage recorded in this test was wrong, I find the MOT history more persuasive - this is why I used the rough mileage figure of around 91,000 miles when looking at the value of the car at the time it was sold at auction.

We've checked with Miss O that her contact details are correct and the Investigator has confirmed these with BMF.

Putting things right

To put things right for Miss O, I require BMF to:

- Default the account (if this hasn't been done so already) and backdate it to April 2020,
- Reduce the amount outstanding under the agreement from £10,546.62 to £4,589,
- Work with Miss O on a suitable repayment arrangement for the £4,589 that will be outstanding.

My final decision

My decision is that I uphold this complaint and I require Blue Motor Finance Ltd to carry out the actions set out under the 'putting things right' section of this decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss O to accept or reject my decision before 15 October 2025.

Leanne McEvoy
Ombudsman