

complaint

Miss G complains that a used car she acquired via a hire purchase agreement with Blue Motor Finance Ltd isn't of satisfactory quality. She would like Blue Motor to cover the costs of the repairs.

background

In March 2018 Miss G acquired a used car via five year hire purchase agreement. The car was around five years old and had a mileage of 40,000.

In August 2018 the car had a problem with overheating and was fitted with a new water pump and thermostat. Miss G says she was told to run the car and see if there were any further issues. In September 2018 Miss G says the car was still overheating and this was raised with the garage but no repairs were undertaken.

In November 2018 the car began to seriously overheat and there was fluid leaking from the coolant reservoir together with a burning smell. Miss G managed to get the car to the garage. Miss G says that the garage told her that the car had deep seated corrosion and needed a new head gasket and various other repairs to the engine caused by the overheating. Miss G has supplied photos of the engine and the repair invoices.

Miss G says she spoke to the dealership that had supplied the car about wanting the work done elsewhere as she had lost faith in them. She says they offered her a cheque for £400 to go towards getting the repairs but haven't actually paid this sum.

Miss G arranged for the garage to do the repairs. She was without her car for three weeks while the work was done and rented a car in that period.

Miss G complained to Blue Motor about the quality of the car. Blue Motor didn't uphold her complaint. It said that the fault with the car had arisen after more than six months from inception of the agreement and it was for Miss G to show that the problem had been present at the point of sale.

Miss G disagreed with Blue Motor's decision and complained to this service. She said the car required further repairs to a cylinder and pumps and these were due to damage caused by the car overheating.

Our investigator recommended that Miss G's complaint should be upheld. He said that as the car wasn't new issues would be expected with wear and tear over time but he didn't think a reasonable person would expect issues so soon with the head gasket when taking into account the car's age and mileage. He said he thought the issue with the head gasket had been present or developing at the point of sale and the car wasn't reasonably durable. Our investigator said in light of the evidence Miss G had produced he didn't think it was fair to ask her to provide anything more such as an independent report. He said it would be fair for Blue Motor to cover the costs of the repairs Miss G had already paid for and cover the costs of the repairs that were still outstanding plus any out of pocket expenses she'd incurred upon presentation of receipts.

Blue Motor disagreed with our investigator's view. It said that the repairs in August 2018 had been to the water pump and thermostat and Miss G had gone on to drive the car for 3000 miles in the following four months after these repairs. The head gasket fault had been

reported nine months into the agreement and if there had been an issue with this part as from the point of sale then it would have shown up earlier. Blue Motor also said that it would've expected the head gasket problem to have been picked up at the earlier repairs if it had been present.

Blue Motor said Miss G had been able to drive the car for a total of 6,500 miles since she'd acquired it and that indicated the car was working.

As the parties couldn't agree the complaint has been passed to me.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Under the Consumer Rights Act 2015 a car must be of "satisfactory quality" at the point of sale. And satisfactory quality is what a reasonable person would expect taking into account all the relevant circumstances such as age, condition and mileage of the car. Durability is also part of satisfactory quality as although no one would expect all the components of the car to last forever they also wouldn't reasonably expect issues to arise with the car for a period of time. Here the car was five years old with a mileage of 40,000.

If the car wasn't of satisfactory quality at the point of sale then the retailer would have an opportunity to repair. If that wasn't successful then the consumer would be able to reject the car. And where a car is supplied under a finance agreement then it's the finance company, in this case Blue Motor, who is responsible for dealing with the fault.

Blue Motor says that the faults were unrelated. The first fault in August was with the water pump and thermostat and that once these were repaired then the car was fully useable. It says the fault with the head gasket arose some months later and couldn't have been present at the point of sale as Miss G had been able to drive for 3000 miles in that time.

But I disagree; the car had an issue with overheating within a short time of Miss G acquiring it. She has produced the invoices for those repairs although one invoice has wrongly recorded her postcode for the car's registration number. Blue Motor has accepted those repairs were undertaken. And I'm aware that overheating can either be symptom of a head gasket failing or can result in its failure. So I think that it's more likely than not that the overheating and the head gasket failure was linked.

I also don't think that a reasonable person would've considered the car as durable. I appreciate Miss G was able to drive the car for 3,000 miles following the first repairs but this wasn't an excessive mileage and head gaskets would be expected to last for many more miles than 46,000 before they needed replacing. So I don't think this repair is one a reasonable person would've anticipated would arise taking into account the age and mileage of the car.

I appreciate that under the Consumer Rights Act 2015 that if a fault is found six months after the start of an agreement then the onus lies on the consumer to prove it was present or developing at the point of sale. But here I think it's fair to say that the fault was discovered prior to the car breaking down in November 2018. Blue Motor says it hasn't had an opportunity to inspect the car but I don't think that would now be helpful in light of the repairs

that have already taken place as the head gasket and other parts have already been replaced.

Blue Motor also says it wasn't fair that Miss G didn't permit either it or the dealership to look at the car before the repairs were undertaken. However, Miss G says she spoke with the dealership about using another garage. I haven't seen any evidence that contradicts what Miss G says so I think she raised it with the dealership first. I've seen an email from Miss G to the dealership asking where the promised £400 cheque was. I don't know why this was offered and then not paid.

So I'm satisfied on the evidence that the car wasn't of satisfactory quality at the point of sale and I'm upholding Miss G's complaint. To resolve this complaint Miss G has asked that the car be fixed and the costs she's already paid out on repairs to be reimbursed. I think this would be fair and reasonable resolution so I'm asking Blue Motor to do the following:

- Reimburse Miss G for the costs of the repairs already undertaken together with interest. Miss G has already produced the invoices.
- Reimburse Miss G the costs of renting a car during the period the car was being repaired. Miss G will need to provide invoices for that expenditure before that reimbursement can be made.
- Cover the costs of the outstanding repairs to the cylinder and two pumps that were damaged by the overheating of the car.

Miss G has asked that her payments under the agreement should be reimbursed but as she has been able to use the car and will be reimbursed the rental costs (once invoices have been provided) I don't think that is reasonable. Miss G always expected to have travel costs.

my final decision

For the reasons given above I'm upholding Miss G's complaint. I'm asking Blue Motor Limited to resolve this complaint by doing the following:

- Reimburse Miss G for the costs of the repairs already undertaken together with interest at the rate of 8% per year simple from the date of payment until the date of settlement. Miss G has already produced the invoices.
- Reimburse Miss G the costs of renting a car during the period the car was being repaired. Interest is to be added to those payments at the rate of 8% per year simple from the date of payment until the date of settlement. Miss G will need to provide invoices for that expenditure before that reimbursement can be made.
- Cover the costs of the outstanding repairs to the cylinder and two pumps that were damaged by overheating of the car.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss G to accept or reject my decision before 8 November 2019.

Jocelyn Griffith
ombudsman