

The complaint

Mr T complains that a car acquired with finance from Blue Motor Finance Ltd ("BMF") wasn't of satisfactory quality.

What happened

In November 2021 Mr T was supplied with a car and entered into a hire purchase agreement with BMF. At the point of supply the car was around 7 years old and had covered around 90,740 miles.

Mr T experienced some issues with the car. He says he had to replace the battery around two months after getting the car.

Mr T took the car for an MOT in October 2022 but it failed on the emissions test. Mr T discovered that the exhaust had been clipped together, the anti roll bar links were damaged, and the suspension arm ball joint was worn.

Mr T says he was without the use of the car for several weeks until he could get the car through its MOT. It passed an MOT on 14 November 2022.

Mr T raised a complaint with BMF in March 2023. He said the head gasket had blown due to the water pump perishing.

BMF didn't uphold the complaint. It said it had reviewed the pictures of the car provided by Mr T but these weren't sufficient to show whether the fault was present or developing at the point of supply. It said it had reviewed the MOT history and the reasons why the car failed its MOT was due to wear and tear of the components.

Mr T remained unhappy and complained to this service.

Our investigator didn't uphold the complaint. He said there wasn't enough evidence to say that the car was of unsatisfactory quality at the point of supply.

Mr T didn't agree so I've been asked to review the complaint.

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.

The Consumer Rights Act 2015 is relevant to this complaint. This says that goods must be of satisfactory quality when they are supplied. Cars are of satisfactory quality if they are of a standard that a reasonable person would consider to be acceptable taking into account factors such as the age and mileage of the car and the [rice paid. The legislation says that the quality of the goods includes their general state and condition, as well as things like fitness for purpose, freedom from minor defects, appearance and finish, safety and durability.

I'd expect a second hand car – such as that supplied to Mr T – to have a degree of wear and tear when it was supplied and to require repairs and maintenance sooner than, say, a brand new car.

I've reviewed the available information about the issues which Mr T experienced with the car. Based on what I've seen, I'm satisfied that there's a fault with the car. Mr T has said that the head gasket has blown and that there's water leaking from the engine. I haven't seen a diagnostic report to confirm the fault, but I'm persuaded by Mr T's testimony that the fault exists. So I'll go on to consider whether the fault with the head gasket was present or developing at the point of supply.

I've also reviewed the MOT information. I can see that there were some issues with the car which caused it to fail the MOT in October 2022. It appears that these issues were fixed because the car passed its MOT the following month. I'll consider whether the issues identified at the MOT were present or developing at the point of supply.

Just because there's a fault doesn't mean that the car wasn't of satisfactory quality when it was supplied. So I need to consider whether the fault was present at the point of supply and whether that fault made the car of unsatisfactory quality.

The relevant legislation says that where a fault occurs in the first six months from the point of supply, it's assumed that the fault was present or developing at the point of supply, and it's generally up to the business to put things right. The business is allowed one opportunity to repair the fault. If the repair isn't successful, the consumer can reject the car.

After six months the burden of proof is reversed and it's up to the consumer to show that the fault was present or developing at the point of supply.

Mr T has said that he had to replace the battery around two months after getting the car. I haven't been provided with any evidence to show that the battery was replaced, or any evidence to show that there was something wrong with the battery. Because of this lack of evidence, I'm unable to say that there was a fault with the battery at the point of supply.

I've reviewed the MOT history of the car. An MOT was completed in August 2021 around three months before the car was supplied to Mr T. The car passed the MOT with two advisories – the front suspension arm ball joint had some play and the front brake disc was worn. Taking the age and mileage of the car into consideration, I think these advisories can fairly be considered as wear and tear to the component parts of the car. I'm not persuaded that these advisories meant that the car wasn't of satisfactory quality when it was supplied to Mr T.

I can see that the car failed an MOT in October 2022. The issues identified included a suspension arm pin and the suspension arm ball joint. The car also failed the emissions test. Because these issues arose more than six months after the point of supply, it's up to Mr T to show that the faults were present or developing at the point of supply. I haven't seen any evidence to suggest that the faults were present or developing at the point of supply. If the issues had been present, I would have expected them to present themselves much sooner. I appreciate that the suspension arm ball joint was an advisory item at the August 2021 MOT. But as I've said, I'd consider this to be reasonable wear and tear to a component part given the age and mileage of the car, and something which a reasonable person would expect to repair or replace as part of general maintenance of the car.

The head gasket fault occurred more than six months after the point of supply. So again, it's up to Mr T to show that the fault was present or developing at the point of supply. I haven't seen any evidence to suggest that there was a fault with the head gasket at the point of

supply. If there had been, I would have expected Mr T to experience a serious issue with the car much sooner, given the number of months he'd been driving the car and the mileage he's covered.

In relation to the other issues experienced by Mr T, including the damaged anti roll bar and the exhaust being clipped, I haven't seen any evidence to suggest that these faults were present or developing at the point of supply. Even if the exhaust was clipped when the car was supplied to Mr T, there's no evidence to suggest that this was the cause of the car failing its emissions test at the MOT in October 2022.

I appreciate that Mr T is unhappy about some aspects of the cars bodywork and that the car didn't have a spare tyre or a wheel jack. Its reasonable to expect that a car of this age and mileage is going to have some wear and tear to the bodywork and may have items of equipment missing. There's no evidence to suggest that the supplying dealer told Mr T that the spare wheel or the jack were present, or that they would be supplied. So I'm unable to say that these issues meant that the car wasn't of satisfactory quality when it was supplied.

Taking all of the available information into account, and whilst I appreciate that Mr T has found it frustrating to experience these issues with the car, there isn't enough evidence for me to say that the car wasn't of satisfactory quality when it was supplied to Mr T. So I won't be asking BMF to do anything further.

My final decision

My final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 6 November 2023.

Emma Davy
Ombudsman