

The complaint

Mr L complains about a used car he acquired using a hire purchase agreement with Blue Motor Finance Ltd. The car suffered a serious engine failure within a few months of Mr L taking possession of the car and it now requires a replacement engine.

What happened

Mr L took out a motor finance agreement in April 2022 with Blue Motor Finance to fund the cost of a car. The car was used, around eight years old and had travelled 72,137 miles when supplied to Mr L. The cost of the car was £15,250, and the majority of the cost was met through the hire purchase agreement, with £750 being Mr L's deposit.

Mr L says that at the end of August 2022 the car broke down and it was subsequently established that the engine had seized and needed replacing. By that time, the car had only travelled 74,009, therefore 1,872 miles since Mr L had the car.

After some time trying to sort things out with the dealership, Mr L complained to Blue Motor Finance. In summary, it said that as more than six months had passed since Mr L acquired the car it would need further supporting evidence to demonstrate the car was faulty when supplied to Mr L.

Mr L and Blue Motor Finance could not resolve matters and the complaint was referred to our service, where it was considered by one of our investigators. They found the car was not of satisfactory quality, Blue Motor Finance should meet the cost of repairing the car, along with writing off the repayments due while the car has been unusable.

Mr L accepted the investigator's view and recommendations. Blue Motor Finance did not. It considers an inspection of the car is required to establish the cause of the engine failure and has also referred to Mr L's driving style that may have been an issue. The investigator did not consider an inspection was necessary and as the complaint cannot be resolved informally it has been referred to me for final consideration.

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.

Having done so, I have come to the same overall conclusions as the investigator, for what are broadly the same reasons.

It is important to point out that we're an informal dispute resolution service, set up as a free alternative to the courts for consumers. I'm very aware that I have summarised in much less detail what has been submitted by the parties in this complaint. In deciding this complaint I've focused on what I consider to be the heart of the matter rather than commenting on every issue or point made in turn. This isn't intended as a discourtesy to Mr L or Blue Motor Finance but reflects the informal nature of our service, its remit and my role in it.

Mr L acquired the used car through a hire purchase agreement with Blue Motor Finance. The hire purchase agreement is a regulated consumer credit agreement and because of that our service is able to consider complaints about the agreement. As the provider of the hire purchase agreement Blue Motor Finance is also the supplier of the car to Mr L. As the supplier of the car Blue Motor Finance is responsible for the quality of the car and the Consumer Rights Act implies terms into the hire purchase agreement requiring the car to be of satisfactory quality. Exactly what is satisfactory quality will depend on the specific circumstances of any given case. In this instance, where the complaint relates to a car, I think it reasonable that when considering whether the car is of satisfactory quality the car's age and mileage at the time it was supplied are all key considerations.

Mr L acquired a used car that was approximately eight years old and had travelled 72,137 miles. The price of the car was not insignificant and was £15,250. I accept that it is reasonable for a used car of this age and mileage to show signs of wear and tear and this will be reflected in the price of the used car, when compared to how much it would have cost new.

The car has suffered an engine failure and it has been noted by one of the garages that Mr L visited that the engine has seized and requires replacement. There appears therefore to be no dispute the car is faulty. Blue Motor Finance is responsible for the quality of the car at the time it is supplied and is not responsible for any more general maintenance costs or issues considered to be fair wear and tear. The failure of an engine is not in my view a fair wear and tear issue, as it is quite obviously a key component in the vehicle that should be expected to last the lifetime of the vehicle.

I accept that an engine requires servicing but Mr L has only travelled 1,872 miles over the approximate four months before the engine failed. I do not consider the engine failure is therefore caused by any servicing failures on Mr L's part, over the very short time he had the car. Blue Motor Finance has also suggested Mr L's driving style may be a factor here, but it has not provided anything further to support this statement. I am not therefore persuaded this is a contributory factor in the engine failure.

After concluding the car is defective, the next consideration is around whether, when considering the broader circumstances, the car was or was not of satisfactory quality when considering the Consumer Rights Act 2015. One element of satisfactory quality refers to durability and the expectation here is that goods will last for a reasonable amount of time. As referred to above, the car's engine is a key component that should be expected to last the lifetime of the car. Exactly what the lifetime of a car is will vary depending on a variety of things and it is difficult to put an exact expectation that would be applicable in every case. In this case the engine failed and requires replacement at 74,009 miles and I think that a reasonable person would consider this to be a premature failure. And because of this I am satisfied that when considering the requirements of the Consumer Rights Act 2015 around durability, the car was not sufficiently durable. And consequently, the car was not of satisfactory quality when supplied to Mr L.

Also, considering how soon the car failed after Mr L took possession of it, I think it more likely than not that there was an inherent problem with the engine before Mr L acquired it, that then led to its failure shortly after Mr L started using the car. Mr L only had the car a short time and had only travelled 1,872 before it failed and I think it's unlikely this was just coincidence. Notwithstanding the finding above about the durability of the car, I consider it more likely than not there was an underlying issue or problem with the car when it was supplied to Mr L and this then led to the engine failure shortly after Mr L acquired the car.

I have considered what Blue Motor Finance has said about obtaining a further inspection report to determine the cause of the engine failure but like the investigator, I do not consider

that necessary. It is clear the engine has failed and in my view prematurely. Any inspection would need to likely remove and/or strip the engine to gain access to the internal engine components. This would be costly and take time and is likely to tell us nothing that is not already known, i.e. the engine has failed prematurely.

Furthermore, the companies Blue Motor Finance has referred to and has suggested could perform the inspection are in my experience unlikely to perform the engine strip down that is needed here. This would require a much more closer inspection, again at much more cost, by a specialist.

I have already concluded that the failure is not caused by any lack of servicing or driving style of Mr L and again fail to see the benefit of any further inspection now.

Putting things right

I understand the car is still awaiting repair and Mr L has said that he is happy for the car to be repaired. This seems reasonable in my view and Blue Motor Finance should meet the associated costs of repairing the vehicle. It has been noted that a replacement engine is required and I would suggest that Mr L and Blue Motor Finance now make arrangements for the car to be repaired.

Blue Motor Finance should meet the costs of repair, along with any additional costs, such as transportation from where the car is now to the place of repair.

Mr L has been without use of the car for some time now and I think it is unreasonable to expect Mr L to meet the costs of the monthly repayments to the hire purchase agreement while not having use of the car, and one would assume incurring additional travel costs elsewhere. Any repayments Mr L has made to the hire purchase agreement since August 2022, up until the car is repaired and collected by Mr L, should be written off if not already paid by Mr L. If Mr L has paid them, they should be refunded to him with interest. Interest should be calculated at 8% simple per year from the date of each payment until the date of settlement.

If Blue Motor Finance has recorded any adverse information, such as missed or late payment markers, with the credit reference agencies, these should be removed. Once the car is repaired and collected by Mr L, regular repayments and reporting can then resume.

Finally, I consider that being supplied the car that was not of satisfactory quality has caused Mr L some trouble and upset. Being without the car, making arrangements with garages to determine the issue, are things that would have been inconvenient to Mr L. In addition to what I have set out above, Blue Motor Finance should make an additional payment of £250 to Mr L.

If this is not paid within 28 days of Mr L accepting this decision, interest at the same rate above should be added to this payment.

My final decision

My final decision is that I uphold Mr L's complaint against Blue Motor Finance Plc and direct it to settle the complaint in accordance with what I have set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 23 October 2023.

Mark Hollands
Ombudsman