

## **The complaint**

Miss B complains about the quality of a car supplied to her under a hire purchase agreement with Blue Motor Finance Ltd (“Blue”).

## **What happened**

In September 2022 Miss B took out a hire purchase agreement with Blue for a used car. The car was just over five years old and had a cash price of £7,894. Under the terms of the finance agreement, Miss B was to pay a deposit of £500 followed by 60 monthly instalments of £211.58.

Miss B says she had a number of problems with the car making a strange noise, water leaking into the boot, and the door handle not working properly. She says it went back to the supplying dealer for two weeks in February 2023 for repairs, but this didn’t resolve the issues.

In March 2023 Miss B complained to Blue. She sent them a vehicle health check and invoice she’d obtained from a garage, listing the faults with the car. But Blue didn’t uphold her complaint - they said these issues would be classed as general wear and tear. Unhappy with this response, Miss B brought her complaint to us.

After looking into what had happened, our investigator said he thought the car hadn’t been of satisfactory quality when it was supplied to Miss B. To put things right, he thought Miss B should be able to reject the car, bringing the agreement to an end, and receive a refund of her deposit. He said Blue should also pay Miss B £250 compensation for distress or inconvenience she’d been caused.

Miss B was happy with our investigator’s proposals as to how her complaint should be resolved. Blue disagreed – I’ll summarise the main points they made:

- The issues still outstanding appear to be water ingress and a faulty door catch.
- The door catch was replaced in February 2023 as a goodwill gesture. This damage was caused by someone trying to open the door when it was in safety mode.
- The water ingress was caused by damage to the rear bumper, which hadn’t been present when the car was supplied to Miss B. The dealer’s attempt to repair this wasn’t a repair under the Consumer Rights Act 2015, so Miss B doesn’t now have grounds to reject the car.
- The garage that examined the car for Miss B confirmed there was evidence of accident damage to the bumper.
- If the damage had been present when she first got the car, Miss B would’ve complained about water ingress within the first month. This would be expected to be seen earlier than four months after delivery.

Blue provided photos showing the condition of the car when it was supplied to Miss B and when she returned it for repair in February 2023. As Blue didn’t agree with our investigator’s view of Miss B’s complaint, it’s come to me for a final decision.

After reviewing the evidence, I wrote to both parties setting out my thoughts on the case. I didn't receive any further information or comments in response.

### **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 agreement Miss B entered into was hire purchase, so I'm satisfied I can consider her complaint about it. Under this type of agreement, Blue are the supplier of the car. This means they're responsible for a complaint about its quality.

When considering what's fair and reasonable, I take into account relevant law and regulations. The Consumer Rights Act 2015 (CRA) is relevant to this complaint. It says that under a contract to supply goods, there's an implied term that the quality of those goods is satisfactory.

The standard that's applied is whether a reasonable person would consider the quality of the goods to be satisfactory, taking into account the way they were described, the price and all the other relevant circumstances. In a case involving a car, it seems likely a court would take into account things like its age, mileage, and how much the customer paid for it.

In this case, the car was just over five years old when it was supplied to Miss B. I haven't seen anything to confirm the exact mileage at that time, but from online MOT records I can see it had covered at least 51,688 miles. It cost £7,894, which is significantly less than it would've cost when it was new.

I don't think a buyer would expect this car to be in perfect condition. I think they'd probably expect some parts to have suffered a bit of wear and tear. But I think they'd still expect it to be free from anything other than minor faults when it was supplied, and to be able to drive it for a reasonable amount of time without major issues.

I'm satisfied that there's now at least one fault with the car. I've seen copies of the vehicle health check and invoice Miss B obtained, dated 27 March 2023, stating:

*"Water ingress in boot – further investigation required (seals etc)"*

*"Suspect offside door lock required".*

I consider these to be significant faults because I think it's important for the boot to stay reasonably dry when it's closed, and to be able to open the doors. I wouldn't consider the car to be of satisfactory quality with those faults present. The point for me to decide is whether one or both of these faults was most likely due to an issue that was present or developing at the time the car was supplied to Miss B.

I've considered when these problems first came to light. I've seen a copy of an invoice dated 17 February 2023, which records the following investigation work having been carried out at the supplying dealer's expense:

*"Carry out checks for water ingress into boot area"*

*"Found water entering via rear vent behind bumper"*

*"Trace O/S/R door lock fault to catch mechanism".*

If a car isn't of satisfactory quality within six months of delivery - as is the case here - the CRA makes it clear that I must start from the presumption that it wasn't of satisfactory quality from the start. There are exceptions to this. The presumption doesn't apply if Blue can

demonstrate that the car was of satisfactory quality when it was delivered. And it doesn't apply if the nature of the fault isn't the kind of thing that can reasonably be presumed to have been present when the car was delivered.

Blue say the problem with water seeping into the boot was caused by accident damage to the rear bumper. They've told us that both of the garages that examined and repaired the car reported signs of accident damage. But I haven't seen any supporting evidence about this. In particular, I haven't seen any supporting evidence that shows the car has been damaged since Miss B got it.

I've very carefully examined the photos Blue provided, showing the condition of the car before it was delivered and when it was later returned to the dealer. I'm unable to see signs of accident damage in any of these photos. If there is damage to any area of the car, I don't consider it to be obvious. The evidence I've seen shows the water was collecting in the area where the spare wheel is stored. So, I don't agree that Miss B would - or should - have noticed how much water was leaking into the boot sooner.

For these reasons, I'm not persuaded that the evidence Blue have provided shows the water seeping into the boot is due to something that's happened to the car since Miss B got it. It follows that I find the car wasn't of satisfactory quality when it was supplied to Miss B. I don't consider it necessary to discuss the issue with the door lock.

### **Putting things right**

The invoice dated 17 February 2023 shows the following repair was carried out on the boot to fix the leak:

*"Remove rear bumper/lamp units/vents*

*Clean/dry/reseal and refit all parts".*

As I've seen evidence showing there was still a problem with water getting into the boot the following month, I think it most likely that this repair was unsuccessful. So I'm satisfied that Miss B now has the right to reject the car.

I understand Miss B is currently still using the car. I think it's fair that she should pay for the use she's had of it. So, Blue should make arrangements to collect it on a date that's convenient for her, bringing the agreement to an end on the date it's collected. And they should refund the £500 deposit she paid.

Miss B has provided evidence showing she paid £40.80 for the vehicle health check on 27 March 2023. I think it's fair for Blue to reimburse her that cost.

I think Miss B has been caused stress and inconvenience by being supplied with a car that wasn't of satisfactory quality. The evidence I've seen shows the problem with water leaking into the boot has been going on for some time. Miss B took it back to the supplying dealer to try to fix it, and then to another garage to look into why the problem was still happening. I think Blue should pay Miss B £250 for the stress and inconvenience these issues have caused her.

### **My final decision**

For the reasons I've explained, I uphold this complaint and direct Blue Motor Finance Ltd to:

- Make arrangements to collect the car without charge to Miss B, on a date that's convenient for her.
- End the agreement on the date the car is collected. No penalty charge should be

applied for ending the agreement early.

- Refund the £500 deposit Miss B paid.
- Reimburse the £40.80 Miss B paid on 27 March 2023 for diagnostic work.
- Add 8% simple interest to each of the refunded and reimbursed payments, calculated from the date of each payment until the date of settlement.
- Pay Miss B £250 for the stress and inconvenience she's been caused.

If Blue consider tax should be deducted from the interest element of the award, they should tell Miss B how much they've taken off. They should also give her a tax deduction certificate if she asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 29 December 2023.

Corinne Brown  
**Ombudsman**