

The complaint

Miss C complains that a car acquired with finance from Blue Motor finance Ltd (“BMF”) wasn’t of satisfactory quality.

What happened

In February 2022 Miss C was supplied with a car and entered into a hire purchase agreement with BMF. At the point of supply the car was around 5 years old and had covered around 45,000 miles.

The car broke down in February 2023. It was recovered to a third-party garage who diagnosed that the timing belt had snapped and that the car required a new engine.

Miss C complained to BMF and asked it to meet the costs of repairs. In its final response, BMF said it couldn’t help. It said that because the fault had occurred more than six months after the point of supply it was up to Miss C to provide evidence to show that the fault was present or developing at the point of supply.

Miss C wasn’t happy with the response. She arranged for the car to be independently inspected in June 2023. The report concluded that the timing belt was severely deteriorated and that the most likely cause of this was service related. The report stated that the service history was out of scope and that the car didn’t have a full main dealer service history. The report stated that the type of service history was highly likely to have caused the damage to the timing belt and that it was likely that the fault would’ve been developing at the point of supply.

Miss C sent the inspection report to BMF. It said the report had been reviewed by the supplying dealers’ technical team and they didn’t agree with the issues raised. It said the technical team had concluded that the deterioration of the timing belt could have happened at any stage, including since the last service.

Miss C remained unhappy and brought her complaint to this service.

Our investigator upheld the complaint. They said the independent inspection report stated that the fault was developing at the point of supply due to the service history, which hadn’t been carried out in accordance with the manufacturers recommended guidelines. The investigator said that Miss C should be allowed to reject the car.

BMF didn’t agree. It said the case had been reviewed in full by the supplying dealers’ technical team who had concluded that the deterioration of the timing belt could’ve happened at any stage. It said there was no evidence to show that the deterioration was present at the point of supply other than an opinion. BMF said that although Miss C had taken out a service plan at the point of supply, she had elected to use an independent garage for servicing and MOT work. It said that if the timing belt was already deteriorated to the point suggested by the independent inspection report it would question why Miss C’s mechanic didn’t alert her to this. BMF said Miss C had good use of the car which indicated that it was of satisfactory quality at the point of supply.

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 supplied. Cars are of satisfactory quality if they are of a standard that a reasonable person would regard as acceptable, taking into account factors such as the age and mileage of the car and the price paid. The legislation says that the quality of goods includes their general state and condition, as well as things like fitness for purpose, appearance and finish, freedom from minor defects, safety and durability.

The car supplied to Miss C was around 5 years old and had covered around 45,000 miles. So it's reasonable to expect that parts of the car would already have a degree of wear and tear and that it was likely to require repairs sooner than, say, a brand new car.

Under the Consumer Rights Act 2015, where a fault occurs with a car within the first six months of 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. 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.

I've reviewed the available evidence about the issues which Miss C experienced with the car. Based on what I've seen, I'm satisfied that the car has a fault. I say this because I've seen an invoice from a third-party garage which confirms the car has timing belt failure. I've also seen the independent report which states that the timing belt is severely deteriorated.

I've gone on to consider whether the car was of satisfactory quality when it was supplied.

I've reviewed the inspection report. This is an independent report completed by an expert engineer, so I must give it considerable weight as evidence. The engineer states that in his expert opinion, the service history of the vehicle is highly likely to have caused the damage to the timing belt. The engineer stated that the service history wasn't in keeping with the recommended specifications of the manufacturer and that this would've had a detrimental effect on the longevity of the timing belt.

It's clear from the inspection report that the engineer has looked into the service history of the car in some detail. He has identified that the service interval is 12,500 miles or 12 months (whichever comes first) and has gone on to identify where the service history is lacking or out of scope.

The engineer has also commented on the expected lifespan of a timing belt in this type of vehicle. He has stated that the timing belt should be replaced after 150,000 miles or 10 years whichever comes first. Miss C's car had only covered mileage of around 59,000 and was only around 6 years old when the fault occurred, which calls into question the durability of the car.

I've considered the comments made by the supplying dealers' technical team and BMF. They have dismissed the independent inspection report as nothing more than opinion and rely on the assertion that timing belts deteriorate with use and that they can fail at unexpected times. Whilst I don't necessarily disagree with the latter point, I think the independent inspection report must be given more weight than "opinion". It's clear from the report that the engineer is linking the deterioration in the timing belt to the service history of the car.

On balance, I'm persuaded that the car wasn't of satisfactory quality when it was supplied. Miss C should be allowed to reject the car.

Putting things right

Miss C hasn't been able to use the car since it broke down on 10 February 2023. I don't think it's reasonable to expect Miss C to pay rentals for a car which she's been unable to use, so I'm asking BMF to refund all rentals paid from that date up until the date of settlement. Prior to February 2023 Miss C was able to use the car, so I think it's fair that she pays rentals for that period.

It's clear that Miss C has been caused distress and inconvenience as a result of being supplied with a car which wasn't of satisfactory quality. She's had to arrange alternative transport and had to arrange the independent inspection herself. I think it's fair to ask BMF to pay £200 compensation for this, as well as refunding the cost of the inspection report.

My final decision

My final decision is that I uphold the complaint. Blue Motor Finance Limited must:

End the agreement with nothing further to pay

Arrange for the car to be collected at no cost to Miss C

Refund the deposit/part exchange contribution of £500

Refund all rentals paid since 10 February 2023 to the date of settlement

Refund £211.20 for the independent inspection

Pay 8% simple interest on all amounts refunded calculated from the date of payment to the date of settlement

Pay £200 compensation for distress and inconvenience

Remove any adverse information from Miss C's credit file in relation to this agreement

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 1 April 2024.

Emma Davy
Ombudsman