

## **The complaint**

Mr M complains that a car that was supplied to him under a hire purchase agreement with RCI Financial Services Limited, trading as Nissan Finance, wasn't of satisfactory quality.

## **What happened**

A new electric car was supplied to Mr M under a hire purchase agreement with Nissan Finance that he signed in September 2016. He had some issues with the car's battery life and the built-in app for finding charging points and the car stopped working at the roadside. He returned the car to the dealer but no fault was found so he cancelled his direct debit for the monthly payments under the agreement in November 2018 and he complained to Nissan Finance about the car in February 2019.

It didn't uphold his complaint and asked him to pay the arrears on his account. Mr M wasn't satisfied with its response so complained to this service. Our investigator didn't recommend that his complaint should be upheld. She wasn't satisfied that there was enough evidence to show that there was a fault with the car that was present or developing at the time of sale.

Mr R has responded to the investigator's recommendation in detail and has asked for his complaint to be considered by an ombudsman. He says, in summary and amongst other things, that:

- the car isn't safe or durable as it's battery life is affected by bad weather and it can run out of charge at any point with 12 miles use still showing;
- he complained to the dealer about the car's battery life in January and March 2017 and August 2018 but it did nothing;
- the charging point app is essential but has never worked (and was wrong on his previous car); and
- he sent multiple e-mails to Nissan Finance and phoned it four or five times and only received one voicemail (to which he replied straight away).

## **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 agree with the conclusions reached by the investigator for these reasons:

- Nissan Finance, as the supplier of the car, was responsible for ensuring that it was of satisfactory quality when it was supplied to Mr M - whether or not it was of satisfactory quality at that time will depend on a number of factors, including the age and mileage of the car and the price that was paid for it;
- satisfactory quality also covers durability which means that the components within the car must be durable and last a reasonable amount of time – but exactly how long that time is will also depend on a number of factors;

- the car that was supplied to Mr M had a price of £17,958.44 and was a new car so I consider that it was reasonable for him to expect that it would be free from even minor defects;
- Mr M has complained about issues with the car's battery life and the built-in app for finding charging points - the car was inspected by the dealer in August 2018 but no concern with the battery cell was identified and the car was tested in December 2018 when the charge was holding 131 miles which it said was typical for this model – and our investigator has explained why it wouldn't be realistic for Mr M to achieve the test mileage that was recorded in controlled conditions;
- Mr M feels very strongly that the car isn't of satisfactory quality and is unsafe – he's described the difficulties that he's experienced when the car ran out of charge and the impact that it had on him and his family (and he says that a major part of his complaint is that he and his family were left stranded on multiple occasions);
- I sympathise with Mr M for those difficulties but he's provided no mechanical or independent evidence to show that there's a fault with the car and the dealer has inspected and tested the car's battery and found no fault;
- Mr M has clearly had significant issues with the car's charging point app which he's described in detail and he's provided photos showing some of the issues that he's experienced - but the app has been checked by the dealer and no fault was found (but it did change some settings) and I'm not persuaded that he's provided enough evidence to show that there's a fault with the app that was present when the car was supplied to him or that the car isn't of satisfactory quality because of those issues;
- he raised concerns about the issues that he had with the car with the dealer in January and March 2017 and in August 2018 – and he cancelled his direct debit and stopped making the monthly payments to Nissan Finance in November 2018 - but he didn't complain to Nissan Finance about the issues with the car until February 2019, nearly two and a half years after the car had been supplied to him;
- Nissan Finance's records show that it sent seven letters and a notice of sums in arrears and left voicemail messages for Mr M after he stopped making the payments to it but that he hadn't contacted it about the arrears so it issued a default notice to Mr M in February 2019 – and that he then contacted it to complain about the car;
- I consider that it would be reasonable to expect Mr M to have contacted Nissan Finance about the issues with the car before he received the default notice and I don't consider that he had the right to stop making the payments that he'd agreed to make in the hire purchase agreement;
- the account statement for Mr M's agreement shows that he hasn't made a payment for the car since October 2018 and the outstanding balance on the account has been £12,930.90 since May 2019 when Nissan Finance ended the agreement – but Mr M still has the car and has continued to use it;
- the car passed an MOT test in June 2020 when it's mileage was recorded as 53,742 – I don't consider that it's likely that Mr M would have been able to drive the car that far in less than four years if the car hadn't been of satisfactory quality – and the agreement included an annual limit of 15,000 miles (above which excess mileage charges would be applied) so the mileage driven in the car has been consistent with the agreed annual mileage limit;
- Mr M is clearly unhappy with the way that Nissan Finance has dealt with his complaint and he says that he sent multiple e-mails to Nissan Finance and phoned it four or five times but only received one voicemail – but I'm not persuaded that there's

enough evidence to show that the customer service that he's received from Nissan Finance has fallen below a reasonably acceptable standard; and

- I'm not persuaded that there's enough evidence to show that the car wasn't of satisfactory quality when it was supplied to Mr M and I find that it wouldn't be fair or reasonable in these circumstances for me to require Nissan Finance to refund to Mr M any of the money that he's paid it for the car, to pay him any compensation or to take any other action in response to his complaint.

I suggest that Mr M contacts Nissan Finance to try to agree an affordable repayment arrangement for the outstanding balance of his account. If he doesn't do so, I consider it to be likely that it will take action to recover that amount from him, to the extent that it's legally entitled to do so.

### **My final decision**

My decision is that I don't uphold Mr M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 23 April 2021.

Jarrold Hastings

**Ombudsman**