

## The complaint

Mrs C complains that a car that was supplied to her under a hire purchase agreement with RCI Financial Services Limited, trading as Nissan Finance, wasn't of satisfactory quality. Her husband is also involved with her complaint.

## What happened

A new car was supplied to Mrs C under a hire purchase agreement with Nissan Finance that she signed in March 2018. Mrs C complained about issues with the car the following day and continued to have issues with it. Mrs C says that the dealer arranged for the car to be inspected by an independent expert in September 2019 and the car was exchanged for a new car with a 20% discount in September 2020.

Mrs C says that she was offered compensation by the manufacturer's UK representative and she expected to receive compensation totalling £7,121 which included refunds of £6,123 for 30 monthly payments under the agreement, £500 for GAP insurance, £249 for a service plan and £249 for tyre/alloy insurance. She didn't receive that compensation so she complained to Nissan Finance in May 2021.

It said that the hire purchase agreement had been settled in September 2020 and that the manufacturer's UK representative had confirmed that Mrs C had received a 20% discount on a different brand-new car but was prepared to also offer a £600 dealership voucher. It said that it fully appreciated the inconvenience and poor level of service that Mrs C had received but was unable to support the refund requested. Mrs C wasn't satisfied with its response so complained to this service.

Our investigator didn't recommend that her complaint should be upheld. She said that if Mrs C wasn't happy with the arrangement that had been put in place for her to buy a new car she could have declined it and contacted Nissan Finance. She didn't think that there was anything more that it could do as, when it was made aware of the complaint, Mrs C had bought the new car.

Mrs C's husband, on her behalf, has asked for this complaint to be considered by an ombudsman. He says, in summary, that:

- the car was unsafe – and he's provided a letter from a third party about the replacement car – and there were ongoing communications which continued after the car was replaced;
- compensation was agreed with the manufacturer's UK representative and it asked for particulars of Mrs C's financial losses which were provided, totalling £7,121 – and bank details were requested and supplied for a settlement payment;
- the 20% discount was in addition to that and was a deal that was available to other customers at that time;
- Nissan Finance hasn't said that a refund isn't due and fairly payable so must provide a comprehensive response; and

- it's not appropriate to reach a view on the balance of probabilities and what most likely happened, in the light of available evidence and wider circumstances.

### **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 outcome recommended by our investigator for these reasons:

- we offer an informal dispute resolution service and try to resolve complaints by customers about financial businesses by looking at what we consider to be fair and reasonable in the circumstances – and where the evidence is incomplete, inconclusive or contradictory, as some of it is here, I have to make my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances;
- Nissan Finance, as the supplier of the car, was responsible for ensuring that it was of satisfactory quality when it was supplied to Mrs C - 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;
- the car that was supplied to Mrs C was a new car and I consider that it was reasonable for her to expect that it would be free from even minor defects ;
- 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;
- Mrs C has complained about a number of issues with the car which she says started the day after the car was supplied to her and she says that the dealer arranged for the car to be inspected by an independent expert in December 2019;
- the manufacturer's UK representative became involved and it agreed that Mrs C could exchange the car through the dealer for a new car with a 20% discount on the price – I don't consider it to be likely that it would have done so unless there was an issue with the car that caused it not to have been of satisfactory quality;
- Mrs C's husband has provided a letter from September 2021 from a third party which inspected the car before it was returned (although the registration number provided is that of the replacement car) which says, amongst other things, that the car is defective;
- I consider it to be more likely than not that the car wasn't of satisfactory quality when it was supplied to Mrs C;
- it's my understanding that the manufacturer's UK representative asked Mrs C for information about her financial losses – which she provided – but I'm not persuaded that there's enough evidence to show that it agreed to pay the amount that she claimed to her as compensation;
- although there were some issues with the car and I consider that it wasn't of satisfactory quality, Mrs C was able to use the car and I don't consider it to be likely that the manufacturer's UK representative would have agreed to refund to her 30 monthly payments under the agreement (the result of which would have been that she, in effect, had free use of the car) and to refund the other amounts that she'd claimed as well as replacing the car with a new car with a 20% discount on the price;

- I consider that allowing Mrs C to return the car in September 2020 after about 30 months of use, settling the hire purchase agreement on that car, and replacing it with a brand new car with a 20% discount on the price was a fair way for her complaint about the car to be resolved – and if Mrs C had wanted a different outcome at that time I consider that it would be reasonable to expect her not to have accepted the replacement car;
- Mrs C has complained about the service that she’s received from the dealer and from the manufacturer’s UK representative but that’s not something for which Nissan Finance is responsible and I consider that its response to Mrs C’s complaint was fair and reasonable and I’m not persuaded that it has acted incorrectly in these circumstances; and
- I find that it wouldn’t be fair or reasonable for me to require Nissan Finance to pay any compensation to Mrs C or to take any other action in response to her complaint.

### **My final decision**

My decision is that I don’t uphold Mrs C’s complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs C to accept or reject my decision before 9 March 2022.

Jarrold Hastings

**Ombudsman**