

The complaint

Mr K complains that a car acquired with finance from RCI Financial Services Limited trading as Nissan Finance wasn't of satisfactory quality.

What happened

In August 2018 Mr K was supplied with a car and entered into a hire purchase agreement with RCI. At the point of supply the car was around 3 years old and had covered around 26,700 miles.

In August 2020 Mr K took the car for a service. A warning light was illuminated. The dealership replaced the battery and cleared the fault codes.

The following day the car broke down and was returned to the dealership. It was found that there was excessive stretch in the timing chain which meant that the timing chain required replacement. The dealership also advised that the exhaust valve on cylinder 2 had burned out and needed replacing. The manufacturer agreed to pay for parts and the dealership paid £500 towards labour, leaving £514.98 for Mr K to pay. The repairs took around 6 weeks to complete and Mr K was provided with a courtesy car during this time.

In December 2020 the car was returned to the dealership for an oil leak. The front crank seal was replaced. The manufacturer confirmed that this was related to the previous repair and covered the costs. Mr K was again provided with a courtesy car whilst the repairs were carried out.

In June 2021 the car broke down again. An oil leak from the turbo pipe was diagnosed. The car broke down again when Mr K collected it from the dealership and at this point, he returned the car to the dealership and asked to reject it.

In September 2021 the dealership advised Mr K that the car needed a new turbo and that the oil pump and filter needed replacing. Mr K refused to authorise repairs because he wanted to reject the car.

RCI sent a final response to Mr K in November 2021. It said the dealership didn't believe that the fault with the turbo was related to the repairs which were carried out in 2020. It also said that unless it was proven that there was a manufacturing defect at the point of supply, it wasn't under an obligation to pay for further repairs. RCI said it had been advised that further diagnostics and a full engine strip down was required to confirm the necessary repairs, but that Mr K hadn't responded to the dealership about this.

Mr K wasn't happy with the response and complained to this service.

Our investigator upheld the complaint. She said that although the faults had occurred two years after the point of supply, she didn't think the car was of satisfactory quality for reasons of durability. She said the fault with the timing chain and the turbo had occurred prematurely, and that Mr K should be allowed to reject the car.

RCI didn't agree. It said there was no set life span for any component part and that the onus was on Mr K to maintain the vehicle. RCI said that because the faults arose a number of years after the point of supply, it didn't think it should be held responsible.

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 quality of goods includes their general state and condition, as well as other things including fitness for purpose, appearance and finish, freedom from minor defects, safety and durability.

Based on what I've seen, I'm satisfied that the car has a fault. This is evidenced by the diagnostics from the dealership, which state that the turbo needs to be replaced. I can see that there have been previous faults with the car, including a fault with the timing chain, which was repaired in August 2020, and an oil leak which was repaired in December 2020.

Where a fault occurs outside of the first 6 months of the point of supply, it's up to the consumer to show that the car wasn't of satisfactory quality when supplied. In this case, the fault with the timing belt occurred in August 2020, around 2 years after the point of supply. The fault with the turbo occurred in June 2021 around 3 years after the point of supply.

RCI has said that the faults occurred so long after the point of supply that they couldn't have been present or developing at the point of supply. It has also said that the expected lifespan of parts such as the timing chain and the turbo are affected by how that car has been used and maintained.

I've taken into account what RCI has said. I agree that the car was outside of the manufacturer warranty when the faults occurred. However, this doesn't mean I can't look into whether the car was of satisfactory quality when it was supplied.

I've looked at the available service and MOT history. I can see that the car passed two MOT's before the faults occurred. However, the faults related to the timing chain and the turbo, which aren't parts of the car which are tested or examined at MOT. So, the fact that the car passed a MOT doesn't mean that there weren't durability issues with these component parts.

I've taken the age and mileage of the car into account. At the time when the fault with the timing chain occurred in August 2020, the car was around 5 years old and had covered around 40,000 miles. Based on information which is widely available online, I'd expect a timing chain to last around 80,000 to 100,000 miles before it needed to be replaced, subject to the car being properly maintained. There's nothing to suggest that Mr K's car wasn't properly maintained. I don't think a reasonable person would expect to replace the timing chain on a car of this age and mileage. Based on what I've seen, I think the fault with the timing chain means that the car wasn't of satisfactory quality for reasons of durability.

In relation to the fault with the turbo, I also think that this fault means that the car wasn't of satisfactory quality for reasons of durability. Based on information online, I'd expect a turbo to last around 100,000 to 150,000 miles before it needs replacing. At the time Mr K was advised that the turbo needed replacing the car had covered around 40,000 miles. I don't think a reasonable person would expect to replace the turbo on a car of this age and

mileage.

Taking everything into account, I don't think the car was of satisfactory quality when supplied for reasons of durability.

Putting things right

Mr K has requested to reject the car. Given that there have already been repairs carried out, I don't think Mr K should have to accept further repairs. I'm of the view that Mr K should be allowed to reject the car.

There have been times since Mr K got the car that he hasn't been able to use it because it's been at the dealership for repairs. Mr K has been provided with a courtesy car during this time. So I won't be asking RCI to refund any monthly rental payments.

Mr K hasn't been able to use the car since 23 June 2021 because of the fault with the turbo. He hasn't been provided with a courtesy car during this time and has had to make alternative travel arrangements. I don't think it's fair that Mr K should have to pay for a car he's been unable to use, so I'm asking RCI to refund all monthly payments made since 23 June 2021.

Mr K has been impacted by the issues with the car. He's had to return the car to the dealership several times and has had to arrange alternative transport since June 2021. I'm persuaded that Mr K has been caused inconvenience by this and I think it's fair to ask RCI to pay compensation.

Mr K incurred costs when the timing chain was repaired. Because I've found that the fault with the timing chain made the car of unsatisfactory quality, I don't think Mr K should have been asked to contribute to the cost of repairs. His contribution should be refunded by RCI.

My final decision

My final decision is that I uphold the complaint. RCI Financial Services Limited trading as Nissan Finance must:

End the agreement with nothing further to pay

Arrange for the car to be collected at no cost to Mr K

Refund the deposit/part exchange contribution of £3,100

Refund all monthly payments made since 23 June 2021

Refund £514.99 which Mr K paid towards the timing chain repairs

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

Pay £300 compensation for distress and inconvenience

Remove any adverse information from Mr K's credit file in relation to the agreement

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 6 July 2022.

Emma Davy

Ombudsman