

## **The complaint**

Mr D complains about the quality of a car he acquired through a hire purchase agreement financed by NIIB Group Limited trading as Northridge Finance (Northridge).

## **What happened**

In February 2020 Mr D acquired a used car through a hire purchase agreement.

In March 2020 Mr D experienced an issue with the brakes in wet weather, where they slowed the car down without warning. Due to Coronavirus (Covid-19) lockdowns, repairs weren't completed on Mr D's car immediately, and he continued to drive it with the issue present.

In June 2020 the car was inspected, and the cause of the fault was traced to a leak in the coolant system, which was repaired.

Mr D said he had to fill the coolant on a monthly basis between July 2020 and January 2021. But, as he wasn't using the car much due to Covid-19 restrictions during this time, he didn't report this.

Mr D reported the problems to the dealership in January 2021, and in February 2021 the cylinder head was replaced. The manufacturer that completed this work said although there were two problems with the coolant system, they were on opposite sides of the engine and not related.

Mr D said he tried to sell the car in February 2021 and found that a pipe to the engine wasn't connected. The manufacturer's garage secured the air intake pipe but reported that this had previously been secured with a sticky material and would need replacing if it detached in the future as it was broken.

Mr D complained to Northridge about the quality of the vehicle in February 2021. As he didn't receive a response to his complaint, he brought his complaint to this service for investigation in April 2021.

Northridge sent Mr D their final response to his complaint in April 2021. They said the first two issues with the coolant system were unrelated and had been repaired, and as the car passed an MOT on 25 February 2021, they thought it was of satisfactory quality. They said repairs had been completed and they weren't aware of any failure of those repairs, but they would consider any report Mr D wanted to provide about the condition of the car. They also said Mr D could sell his vehicle and gave him a preferential settlement figure which reduced the amount he'd need to pay to end the finance agreement.

Mr D sold his vehicle and cleared the finance with Northridge in December 2021.

Our investigator gave his view that he thought the car was of unsatisfactory quality as the first fault was present or developing at the point of sale. He said Northridge had one chance to repair this fault, but it occurred again. So, all things being equal, he would've

recommended that Mr D be given his final right to reject the vehicle. However, because Mr D had sold the vehicle and exited the agreement, this was no longer an option.

He said if Mr D hadn't sold the car, he'd be asking Northridge to refund around £1,000 to Mr D, made up of; about £400 for impaired use of the vehicle, £379.38 for the time he was without the vehicle during repairs, and £200 compensation for the distress and inconvenience.

But, because Northridge had provided a preferential settlement figure to Mr D, he'd benefited by a reduction in the amount he paid under the agreement by about £1,700, so as Northridge had already done more than our investigator would have asked them to, he didn't think they needed to do anything more.

Mr D didn't agree. He said the interest would've been removed from the remainder of the agreement term regardless, so he would've only benefited by around £500 if he'd taken the preferential settlement figure at the time. He also said he was forced to sell the vehicle because of the time taken to resolve the case, he had a semi working car for a long period of time, and the situation has had a detrimental impact on his health for over two years.

Our investigator asked Northridge for further information on how the agreement was settled. They said Mr D didn't ask them to provide another preferential settlement figure, so he received a standard settlement figure when he sold the car at the end of 2021. They also said they thought that if the car was of unsatisfactory quality, the dealership he sold it to wouldn't have bought it.

Our investigator gave their view that Mr D hadn't received any benefit when he sold his car, so Northridge should do something to put right the satisfactory quality point.

He recommended that Northridge refund Mr D's monthly payments for June 2020 and January 2021 as he was without the vehicle for most of these months due to repairs. He also thought Northridge should refund 10% of Mr D's monthly payments for the remainder of the agreement between February 2020 and November 2021, excluding the two months to be fully refunded, to reflect that the car wasn't performing as it should've been for the majority of the time. Finally, he recommended that Northridge pay Mr D £300 compensation for the distress and inconvenience.

Northridge didn't agree. They said Mr D didn't contact them until February 2021, so they didn't know about the earlier repair. They said the car passed an MOT in February 2021, so it couldn't have been defective, or it wouldn't have passed. Northridge said no qualified person had deemed the vehicle to be of unsatisfactory quality and no dealership would pay for a defective car.

As an agreement couldn't be reached, the case was passed to me for a decision.

I issued a provisional decision on this complaint in June 2022 recommending that it was upheld. I made the following provisional findings:

*In considering what's fair and reasonable, I need to have regard to the relevant law and regulations. The agreement in this case is a regulated hire purchase agreement – so we can consider a complaint relating to it. Northridge as the supplier of the goods under this type of agreement is responsible for a complaint about their quality.*

*The Consumer Rights Act 2015 (CRA) is relevant to this complaint. It says that under a contract to supply goods, there is an implied term that the "quality of the goods is satisfactory".*

*To be considered “satisfactory” the goods would need to meet the standard that a reasonable person would consider satisfactory – taking into account any description of the goods, the price and other relevant factors. Those factors, in the case of a car purchase, will include things like the age and mileage of the car at the time of sale, and the car’s history.*

*The quality of the goods includes their general condition and other things like their fitness for purpose, appearance and finish, safety, and durability.*

*Here, the car was acquired used with a cash price of around £8,600. It was six years old and had travelled around 64,000 miles at the time of supply. When a person acquires a used car like Mr D, it’s reasonable to say that the expectation of quality is lower than that of a new or younger/lower mileage used car. The price for the vehicle is lower, and this is reflective of the fact that the car is more road worn. The chance of encountering a serious issue sooner, is higher.*

*Mr D experienced a problem with the car relatively soon after acquiring it, where the braking system wasn’t working correctly. The fault was traced to a leak in the cooling system. Given the severity of the fault, and the cost to repair it, I don’t think a reasonable person would expect this to happen so soon after acquiring a car, even one of this age and mileage. The fault occurred within 30 days of Mr D acquiring the vehicle, so it’s assumed to have been there at the point of supply.*

*With this in mind, I’m satisfied that this fault made the vehicle of unsatisfactory quality.*

*The CRA sets out the remedies available where goods are considered not to be of satisfactory quality and one of the remedies is to allow an opportunity to repair the goods. The vehicle was returned to the dealership, who then arranged for a manufacturer garage to complete the repair. This appears to have been successful, and I’m satisfied that the vehicle was returned to a satisfactory condition following this repair.*

*Mr D experienced some problems with the coolant system after the first repair, and this was traced to a separate part of the system. The manufacturer’s garage said that the faults weren’t linked. So, I’m satisfied this wasn’t as a result of a failed repair.*

*Leaks and damage to seals and gaskets in the cooling system aren’t unusual for a vehicle of this age and mileage, these are repairs that I think a reasonable person might expect to need to make on a car of this age and mileage. So, I don’t think the second fault made the vehicle of unsatisfactory quality. Whilst what has happened is unfortunate, it is the risk of owning an older and higher mileage second-hand car like this one.*

*So, Northridge weren’t responsible for the second repair to the vehicle, and Mr D had no right to a remedy under the CRA as a result.*

*Mr D had a further repair carried out to a loose pipe. There was a suggestion that a poor repair had been carried out to this part prior to the car being supplied to Mr D. But I haven’t seen any evidence that any previous repair wasn’t long lasting. It was noted by the manufacturer as having been seen at their two previous inspections of the vehicle, in June 2020 and February 2021.*

*The manufacturer garage that repaired this part also said it would only need replacing if it came loose again. So, I’m satisfied that the repairs completed to this part were satisfactory. The risk of acquiring an older, used vehicle like Mr D’s is that it might have needed repairs in the past, and I think a reasonable person would expect some relatively serious repairs might have taken place to a vehicle of this age and mileage.*

*All things considered; I don't think this fault made the vehicle of unsatisfactory quality at the time it was supplied to Mr D.*

*Mr D had suggested that there was still a problem with the braking system, but I haven't seen any evidence to support this. The vehicle passed an MOT in February 2021 and 2022 after it was sold. Mr D was also able to sell the vehicle to a dealership, which I think would be unlikely if it was suffering from a fault at the time.*

*As Mr D accepted repair of the vehicle, and it was returned to a satisfactory condition, he no longer had a right to reject it. Mr D hasn't paid for the repairs, they've all been free of charge for him, so there's no cost for me to consider here.*

*Mr D was without a vehicle whilst the repairs were completed, for the majority of June 2020 and some of January 2021.*

*As I think the first fault made the vehicle of unsatisfactory quality, and Mr D wasn't kept mobile during these repairs, Northridge should refund 100% of Mr D's monthly payment for June 2020, plus interest.*

*Mr D continued to use the vehicle between March 2020 when he first experienced the fault, and June 2020 when it was repaired. I appreciate that Northridge weren't able to arrange for repairs any earlier than this because of Covid-19 restrictions, but Mr D had to use a vehicle that wasn't performing as it should. So, Northridge should reimburse Mr D for 10% of his monthly payments from March 2020 to May 2020 to reflect this impaired use, plus interest.*

*Mr D was also without the vehicle for a period during the repairs in February 2021. As I don't think this fault made the vehicle of unsatisfactory quality, I don't think Northridge are responsible for these costs.*

*Northridge offered Mr D a preferential settlement figure in April 2021. They said it was valid until Mr D's next monthly payment, and if he needed another, he should call them.*

*Mr D said when he asked for another preferential settlement figure there was no note of this on his account, so he didn't benefit from this when he sold the car. Northridge said Mr D didn't contact them for a preferential settlement figure.*

*When Mr D complained to Northridge, they offered the preferential settlement figure as a gesture of goodwill. It wasn't a contractual obligation, nor something they needed to leave open indefinitely. So, I don't think Northridge did anything wrong in presenting the standard settlement figure to Mr D. He accepted this and the dealership he sold the car to agreed to meet the settlement figure.*

*Our investigator recommended that Northridge pay Mr D £300 compensation to reflect the distress and inconvenience caused.*

*Mr D has been put to distress and inconvenience in having to have the fault identified and taking his car for a number of repairs. But I don't agree that this was as severe, as I don't think Mr D had a right to reject the vehicle. Overall, I think £150 fairly reflects the distress and inconvenience caused to Mr D.*

*Mr D responded to my provisional decision to say he had nothing further to add.*

*Northridge responded to my provisional decision to say they accepted it.*

## **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.

As neither party has raised any new arguments, or sent me new information to consider, for the same reasoning that I set out in my provisional decision, I've decided to uphold this complaint.

## **My final decision**

My final decision is that I uphold this complaint in part, and NIIB Group Limited trading as Northridge Finance must:

- Refund Mr D's monthly payment for March 2020, plus 8% simple interest from the date of payment to the date of settlement.
- Refund 10% of Mr D's monthly payments from March to May 2020, plus 8% simple interest from the date of payment to the date of settlement.
- Pay Mr D £150 compensation to reflect the distress and inconvenience caused.

If Northridge considers that it's required by HM Revenue & Customs to withhold income tax from the interest part of my award, it should tell Mr D how much it's taken off. It should also give Mr D a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 21 July 2022.

Zoe Merriman  
**Ombudsman**