

## **The complaint**

Mr C is unhappy about the quality of a car supplied to him by N.I.I.B. Group Limited trading as Northridge Finance ("Northridge") under a hire purchase agreement.

## **What happened**

Mr C acquired a used car under a 52 month hire purchase agreement with Northridge in May 2022. The car cost £7,995, it was around eight years old and had completed around 68,700 miles at the point of supply. Mr C paid a deposit of £2,995. Under the hire purchase agreement, Mr C was required to make 51 monthly payments of £115.26, followed by one payment of £125.26. Mr C acquired the car from a dealership I'll refer to as "D".

Mr C says in June 2022, he took the car back to D as the car experienced lack of power in the engine on a few occasions, whilst he was driving on the motorway. He also said the air conditioning and the heating weren't working. D repaired the heating and recharged the air conditioning. Mr C says D advised him to drive the car on the motorway often to clear the engine. He says the issue returned and he returned the car to D in July 2022. He says D found a leak in the coolant system and he says he asked D to clean the coolant reservoir tank, as it was difficult to see the coolant level in the tank. Mr C said the problems returned.

In February 2023, Mr C complained to Northridge. He said he had numerous problems with the car and said despite repairs, there were outstanding issues with the coolant system, the engine losing power and the heating system.

Our investigator looked into the complaint but didn't think Northridge had acted fairly. She said she thought it was more likely than not that the car had faults. She said repairs to the car hadn't been successful and so, she said Mr C should be entitled to reject the car.

Whilst Mr C agreed with the conclusion our investigator reached, he said he paid £2,995 as a deposit, rather than the £2,000 our investigator had suggested. He also said that he paid an additional £500 during the agreement as part of an early settlement. Mr C also said he had incurred transport costs since January 2023 and he was required to continue to pay road tax, insurance and MOT.

Our investigator said she didn't think Northridge should pay Mr C any of the transport costs he incurred from January 2023 onwards, as she had already recommended that it reimburse any monthly payments made after this date. She said it was Mr C's responsibility to ensure the car had tax, MOT and insurance and so, she didn't think Northridge should refund these costs. She also said a statement of account showed that whilst Mr C had paid an additional £500 towards the agreement, this was refunded. She also agreed that the deposit Mr C had paid was £2,995.

Mr C said he didn't receive a £500 overpayment refund and that he wouldn't have incurred transport costs had the car been of satisfactory quality. He also said he accepted our investigator's comments around the MOT, tax and insurance payments.

Our investigator maintained that because she had recommended a refund of all monthly payments Mr C had paid towards the agreement since January 2023, she didn't think that Mr C should also receive transport costs in addition to this. Our investigator said Northridge should refund Mr C the £500 overpayment he had made and it should make a pro-rata refund to Mr C for the cost he paid to service the car in June 2023.

Northridge also disagreed with our investigator. It said Mr C hadn't provided any supporting information to confirm repairs to the car took place in June 2022. It said it hadn't had a chance to repair the goods and neither was it consulted about any repairs that were carried out. Northridge also said the car passed its MOT and it didn't think the issue with the head gasket was present at the point the car was supplied to Mr C, in light of the mileage he had been able to travel. Finally Northridge proposed that it should be entitled to obtain an independent inspection of the car.

Mr C agreed to an independent inspection being carried out. This was carried out by a company I'll refer to as "M" in October 2023. M confirmed that there was a possible issue with the head gasket, there was an air conditioning leak and there was oil in the coolant tank. M said given the car had covered around 5,600 miles since Mr C acquired it, the faults would have developed after the point of sale. However it said the air conditioning issue may have been present at the point of sale. M said the car wasn't fit for purpose in its present condition.

Our investigator reviewed the report and said it seemed M had been told the faults first started in February 2023, but this was incorrect. She said this undermined some of the conclusions the engineer reached.

Northridge said M noted that the car passed its MOT in May 2023. Northridge said the current faults were unrelated to the supply of the car in May 2022. However it did acknowledge that M said the air conditioning unit may have been faulty since it was supplied.

As Northridge remains in disagreement, the complaint has been passed to me to decide.

### **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.

Where evidence is incomplete, inconsistent or contradictory, I reach my view on the balance of probabilities – in other words, what I consider most likely to have happened in light of the available evidence and wider circumstances.

I've read and considered the whole file and acknowledge that Mr C has raised a number of different complaint points. I've concentrated on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it – but because I don't think I need to comment on it in order to reach what I think is the right outcome. The rules of this service allow me to do this.

What I need to decide in this case is whether the car supplied to Mr C was of satisfactory quality. If I don't think it was, I'll need to think what's fair, if anything, to put things right.

The finance agreement in this case is a regulated hire purchase agreement. So our service is able to consider complaints relating to it. Northridge is the supplier of the car under this type of agreement and so, is responsible for dealing with a complaint about its quality.

The Consumer Rights Act 2015 ("CRA") covers hire purchase agreements. Under a hire purchase agreement, there are implied conditions that the goods supplied will be of satisfactory quality. Satisfactory quality is what a reasonable person would expect, considering any relevant factors – such as the age, price, mileage and description, amongst others.

The car Mr C acquired was used and he was paying around £115 a month for it. So, there would be different expectations compared to a new car. Having said that, the car's condition at the point of supply, should have met the standard a reasonable person would consider satisfactory, taking into account its age, mileage and price. The CRA says the aspects of the quality of the goods includes their general state and condition alongside other things such as

their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability.

In this case, Mr C says he initially complained to D about the heating, air conditioning and the car losing power in June 2022. This was around a month after he acquired the car. Mr C doesn't have any job sheets from the time, but he's provided a call log which shows he made calls to D on 6 June 2022. He says the issues occurred again in July 2022 and he took the car into D. He doesn't have a job sheet for this however, the call log shows he contacted D on four occasions between 21 and 28 July 2022. Mr C has also provided evidence to show he booked a coolant change in July 2022, which was cancelled.

In light of this, I'm satisfied on balance that Mr C did complain to D about the issues with the heating, air conditioning and the car losing power in both June and July 2022. There is no supporting information to suggest why there was an issue with the heating, air conditioning or the car losing power so soon after the car was supplied to Mr C. However I wouldn't reasonably expect these issues to occur so soon after Mr C acquired the car.

I've also seen a copy of a text message from Mr C to D in August 2022, in which he refers to previous coolant leak problems. He tells D that the previous repair hasn't solved the problem with the coolant as it is still leaking. He asks for the car to be booked in with D. However Mr C says D didn't respond. As a result of this, Mr C has provided a copy of his warranty bookings which shows he booked the car in on 3 and 20 December 2022.

Mr C has provided a job sheet from January 2023 which shows that a diagnostic was carried out. This showed the gases were found in the cooling system. The mileage at this point was 74,121. This diagnostic cost £60.

All of these issues lead me to believe that the car had a number of faults which developed shortly after Mr C acquired the car. I now need to consider whether these faults make the car of unsatisfactory quality.

In May 2023, Mr C took the car to a garage where a repair of a "*water cap beed up*" was carried out. It noted there was oil in the water.

Following this, an independent report was completed by M in October 2023. The mileage at the time was around 74,300. In relation to the faults Mr C complained about, M noted that the coolant expansion bottle was contaminated with oil and the air conditioning was blowing warm air. M noted there was a stored fault code relating to the EGR which they said would cause the car to lose power. M said the coolant in the expansion tank and the EGR fault suggested a possible head gasket issue. And they said the air conditioning gas had leaked and further investigation was required to determine the root cause of the leak. M said the faults would have likely developed after the car was supplied to Mr C, as he wouldn't have been able to cover around 5,600 miles in the car if it had a faulty head gasket or EGR system.

M used the date of Mr C's complaint to Northridge as the date when it said faults occurred. However, as I've explained above, I'm satisfied that Mr C complained about the issues with the heating, air conditioning, coolant tank and the car losing power between June and July 2022. This was shortly after he acquired the car. M accept that there is still an issue with the coolant and the air conditioning. This is despite D already having an opportunity to carry out repairs to resolve these faults. Mr C also complained about the car losing power early on and M have said the EGR fault code would cause the car to lose power.

I note that an MOT was carried out for the car in May 2023 which was passed. However, this confirms that a car is roadworthy. It doesn't confirm whether a car is of satisfactory quality.

Having considered that the car was used, it cost around £8,000 and its mileage was around 68,700 miles at the time of supply, I don't think that a reasonable person would expect the car to display as many faults as it did around one month after it was supplied. There seems to be no dispute that D has had attempts to repair the various issues Mr C has complained

about. However, these repairs have been unsuccessful and remain outstanding 18 months after the car was supplied to Mr C.

I also think it's likely further faults have developed as a result of the initial issues Mr C complained about. I say this because Mr C complained about the car losing power. M has said the fault code relating to the EGR could cause the car to lose power and it could suggest a possible head gasket issue – which is a fault that has now presented itself. All of these issues persuade me that overall the car was not of satisfactory quality when it was supplied to Mr C.

I've gone on to think about what Northridge needs to do to put things right.

Given Mr C has allowed for the car to be repaired on a couple of occasions – but these repairs have been unsuccessful, I think it would be a proportionate and fair remedy for Mr C to now be entitled to reject the car. So, Northridge should end the hire purchase agreement and collect the car from Mr C at no further cost to him. It should also refund the deposit of £2,995 Mr C paid and pay any applicable interest.

Mr C has also shown that he made an early partial settlement of £500 towards the agreement in October 2022. As a result of the early partial settlement, the agreement term was brought forward. Given Mr C will not benefit from this additional payment made towards the agreement, I think Northridge should refund the early settlement payment of £500 to Mr C with applicable interest.

Mr C has had access to the car and so, he should pay for this use. However, Mr C says he hasn't used the car since January 2023. I've seen a copy of an invoice from January 2023 in which the mileage is recorded at 74,121 miles. The independent report carried out by M in October 2023 showed the mileage as 74,302. This means the car travelled 181 miles between January 2023 and October 2023. Given this mileage is so low, I think it's likely Mr C did stop substantially using the car in or around January 2023. But I note that he has used it on limited occasions during the nine months he had the car. I don't consider that Mr C should be charged for these 181 miles. And so, Northridge should refund any payments Mr C has paid towards the hire purchase agreement since January 2023 with applicable interest.

Our investigator recommended that Northridge refund Mr C 3% of each monthly payment between June 2022 and January 2023 to reflect the issues Mr C has had with the car. I agree with this amount, as the car had numerous ongoing issues with the air conditioning, the heating, the coolant system and the car losing power.

Whilst Mr C's car was in for repair with D during July 2022, Mr C wasn't provided with a courtesy car. Instead he has provided evidence to show he purchased train tickets for £3.35 each to enable him to travel to drop off and collect the car. Mr C has also provided evidence of an invoice from January 2023 for a diagnostic costing £60 and an invoice from May 2023 for the repair of a "*water cap bead up*" for £72. Given Mr C had to pay these amounts as a result of the faults with the car, Northridge should reimburse these amounts to Mr C.

Mr C has provided an invoice to show he had the car serviced in June 2023. This was at a cost of £239.99. As I've decided that Mr C can reject the car, Mr C will not get the full benefit of the cost he's paid to service the car. In light of this, I think Northridge should pay Mr C a pro-rata refund of 75% of the cost of the service in June 2023.

I've also thought about any distress and inconvenience caused to Mr C. Having done so, I agree with the award recommended by our investigator. I'll explain why.

Mr C has demonstrated the extent to which he has tried to liaise with D and Northridge to attempt to resolve the issues with the car. In January 2023 alone, Mr C attempted to call D on nine occasions. However, the issues remained unresolved. Mr C has also told this service that he has been required to take public transport or he's had to walk to places whilst he hasn't had use of the car. He's provided this service evidence of some of the public

transport costs he's incurred. Mr C has also said as he has been unable to acquire another car, this has caused him a high level of stress and anxiety. Having carefully considered what's happened, I'm satisfied that Mr C has been caused distress and inconvenience as a result of the faults with the car. And so, I think Northridge should pay Mr C £300 compensation to reflect the distress and inconvenience caused.

### **My final decision**

My final decision is that I uphold Mr C's complaint. I direct N.I.I.B. Group Limited trading as Northridge Finance to:

- Collect the car at no further cost to Mr C;
- End the agreement with nothing further to pay;
- Refund Mr C's deposit of £2,995\*;
- Pay a refund of any payments made towards the agreement from January 2023 to cover the loss of use of the car;
- Pay a refund of 3% of the monthly rentals between June 2022 and January 2023 to reflect the impaired usage;
- Pay Mr C £138.70 for the additional expenses he incurred as a result of the faults with the car;
- Pay Mr C £179.99 to represent a pro-rata refund towards the car service in June 2023;
- Pay Mr C £500 for the overpayment made towards the agreement;
- Pay Mr C 8% simple interest on these amounts from the date of payment until the date of settlement;\*\*
- Pay Mr C £300 for the distress and inconvenience caused;\*\*\* and
- Amend any adverse information reported to credit reference agencies about this hire purchase agreement.

\*If any of the deposit is made up of funds paid through a dealer contribution, then N.I.I.B. Group Limited trading as Northridge Finance is entitled to retain the proportion of the deposit that is made up of the dealer contribution.

\*\*If N.I.I.B. Group Limited trading as Northridge Finance considers that it is required by HM Revenue & Customs to withhold income tax from that interest, it should tell Mr C how much it's taken off. It should also give Mr C a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

\*\*\*If N.I.I.B. Group Limited trading as Northridge Finance does not pay this £300 compensation for inconvenience and distress within 28 days of the date on which we tell it Mr C accepts my final decision then it must also pay 8% simple yearly interest on this from the date of my final decision to the date of payment.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 12 December 2023.

Sonia Ahmed  
**Ombudsman**