

## **The complaint**

Mr M is unhappy that a car supplied to him under a hire purchase agreement with N.I.I.B. Group Limited trading as Northridge Finance was of an unsatisfactory quality.

## **What happened**

In August 2022, Mr M was supplied with a used car through a hire purchase agreement with Northridge. He paid a deposit of £4,000 and the agreement was for £25,000 over 48 months; with 47 monthly payments of £594.90 and a final payment of £604.90. At the time of supply, the car was around four and a half years old and had done 36,742 miles.

Mr M has said he started to have issues with the car shortly after it was supplied to him, and he complained to the supplying dealership. However, they didn't respond. He says there were issues with the oil continually needing to be topped up, electrical faults, and the car needed to be jumpstarted to be able to get it going.

In February 2023, he raised his complaints with Northridge. They didn't uphold the complaint as Mr M had been able to travel 5,000 miles in the car since supply. Mr M wasn't happy with this response, and he brought his complaint to the Financial Ombudsman Service for investigation.

From the evidence she'd seen, our investigator was satisfied there was a fault with the car. She said the dealership had agreed to look at the car, but this was eight months after Mr M first raised his issues with them. And, because the car wouldn't start, Mr M was then unable to get the car back to the dealership.

The investigator thought the faults with the car were present when it was supplied to Mr M, and that Northridge need to do something to put things right. However, because of the delays and inconvenience caused so far, she said that Mr M should be able to reject the car. The investigator also said that Northridge should refund 40% of the payments Mr M made from January 2023, to reflect his impaired usage, as well as pay him £500 compensation for the distress and inconvenience he'd been caused.

Mr M agreed with the investigator. Northridge said they were always happy to inspect the car, so didn't think they were given the opportunity to attempt a repair, and they didn't think any delay was their fault. They also didn't think it was their responsibility to arrange for the car to be moved.

Northridge also said there was no evidence there were faults with the car when it was supplied to Mr M. And they offered to arrange for an independent inspection, but didn't indicate whether they would pay for this, or whether they would expect Mr M to pay for it.

Because Northridge didn't agree with the investigator, this matter has been passed to me to make a final decision.

## 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've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Mr M was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we're able to investigate complaints about it.

The Consumer Rights Act 2015 ('CRA') says, amongst other things, that the car should've been of a satisfactory quality when supplied. And if it wasn't, as the supplier of goods, Northridge are responsible. What's satisfactory is determined by things such as what a reasonable person would consider satisfactory given the price, description, and other relevant circumstances. In a case like this, this would include things like the age and mileage at the time of sale, and the vehicle's history and its durability. Durability means that the components of the car must last a reasonable amount of time.

The CRA also implies that goods must conform to contract within the first six months. So, where a fault is identified within the first six months, it's assumed the fault was present when the car was supplied, unless Northridge can show otherwise. But, where a fault is identified after the first six months, the CRA implies that it's for Mr M to show it was present when the car was supplied.

So, if I thought the car was faulty when Mr M took possession of it, or that the car wasn't sufficiently durable, and this made the car not of a satisfactory quality, it'd be fair and reasonable to ask Northridge to put this right.

I've seen that Mr M first raised the issue of the low oil with the dealership on 2 September 2022 – around a week after the car was supplied to him. However, I haven't seen anything to show me that the dealership ever responded to this.

Mr M complained to the dealership again on 11 February 2023, raising the issue of the oil leak again, as well as issues with being able to start the car. He then raised the same complaint with Northridge a few weeks later.

Mr M had the car independently inspected on 7 March 2023, at the cost of £114. The inspection report said *"found faults in ECU relating battery protection management unit and NOX sensor. Found oil leaking from rocker cover. All require replacement. Found light oil leak from gearbox also."*

I'm satisfied that the issues Mr M raised with the dealership and/or Northridge in September 2022 and February 2023 are supported by the faults found by the independent inspection. As Mr M raised the issue of the low oil level shortly after being supplied with the car, and his subsequent complaints pointed out that he's had to continue to top up the oil since the car was supplied to him, I'm satisfied the oil leak was present when the car was supplied.

With regards to the battery fault that is most likely the cause of the car not being able to start, I'm satisfied that happened within the first six months of the car being supplied. And, while the independent inspection doesn't comment on whether this was present or

developing at the point of supply, Northridge haven't provided any evidence to show this wasn't the case.

However, notwithstanding this, I've also considered the durability of the car. And I don't consider it reasonable to expect a car that's less than five years old, and which has done less than 50,000 miles, to have developed a fault that means it needs to be jumpstarted all the time. As such, I'm satisfied it's more likely than not that the car was also insufficiently durable at the point of supply. This makes the car of an unsatisfactory quality at the point of supply, and Northridge need to do something to put things right.

### **Putting things right**

Section 24(5) of the CRA says "*a consumer who has ... the right to reject may only exercise [this] and may only do so in one of these situations – (a) after one repair or replacement, the goods do not confirm to contract.*" This is known as the single chance of repair. And this applies to all issues with the goods, and to all repairs i.e., it's not a single chance of repair for the dealership AND a single chance of repair for Northridge – the first attempted repair is the single chance at repair. What's more, if a different fault arises after a previous repair, even if those faults aren't related, the single chance of repair has already happened – it's not a single chance of repair per fault.

Northridge have said that they haven't had the single chance at repair, and they don't think it's fair that this is denied to them. While I agree that neither the dealership nor Northridge have attempted a repair, as I've said above, the evidence shows Mr M first raised the issue of the oil leak with the dealership on 2 September 2022, and they took no action.

Section 23(2) of the CRA states:

*If the consumer requires the trader to repair or replace the goods, the trader must –  
(a) do so within a reasonable time and without significant inconvenience to the consumer*

Given that the dealership was aware there was a fault with the car over 12-months ago, and they took no action to inspect and/or repair the car, I can't agree with Northridge that Mr M has been the cause of the delay – I'm satisfied this was down to the dealership. As such, I'm satisfied that the dealership / Northridge have failed to comply with Section 23(2)(a) of the CRA. And, in these circumstances, Mr M should be now able to reject the car.

Mr M has been able to use the car while it was in his possession. So, I think it's only fair that he pays for this usage. However, given the issues with the car, especially the need to continually jumpstart the car, I'm also satisfied that Mr M's usage and enjoyment of the car has been impaired.

Because of this, I also think it's fair that Northridge refund some of the payments Mr M made. The jumpstarting has significantly impaired the usage of the car, but Mr M only raised this with Northridge in February 2023, so I don't think it's reasonable for him to be able to claim any impaired usage before this point, as Northridge's lack of knowledge before then meant they were unable to take any action to rectify matters. As such, I think that 40% of the payments made from February 2023 onwards fairly reflects the impaired use caused by the car not being of a satisfactory quality.

Mr M has provided evidence of the £114 cost he's incurred in having the car inspected. And, given that the car wasn't of a satisfactory quality when supplied, I think it's only fair that Northridge reimburse these costs.

Finally, it's clear that Mr M has been significantly inconvenienced by what has happened, and this had had a major impact on his ability to use the car. So, I think Northridge should compensate him for this. The investigator had recommended Northridge pay him £500, which is in line with what I would've directed had no recommendation been made. So, I see no compelling reason not to adopt this as part of my final decision.

Therefore, if they haven't already done so, Northridge should:

- end the agreement with nothing more to pay;
- collect the car at no cost to Mr M;
- remove any adverse entries relating to this agreement from Mr M's credit file;
- refund the £4,000 deposit Mr M paid;
- refund 40% of all payments made by Mr M from February 2023 until the agreement is unwound;
- reimburse Mr M with the £114 inspection costs he paid on 7 March 2023;
- apply 8% simple yearly interest on the refunds/reimbursements, calculated from the date Mr M made the payments to the date of the refund<sup>†</sup>; and
- pay Mr M an additional £500 to compensate him for the trouble and inconvenience caused by being supplied with a car that wasn't of a satisfactory quality.

<sup>†</sup>HM Revenue & Customs requires Northridge to take off tax from this interest. Northridge must give Mr M a certificate showing how much tax they've taken off if he asks for one.

### **My final decision**

For the reasons explained, I uphold Mr M's complaint about N.I.I.B. Group Limited trading as Northridge Finance. And they are to follow my directions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 6 December 2023.

Andrew Burford  
**Ombudsman**