

The complaint

Mr I is unhappy that a car supplied to him under a hire purchase agreement with Northridge Finance Limited was of an unsatisfactory quality due to modifications he hadn't been made aware of.

What happened

In December 2022, Mr I was supplied with a used car through a hire purchase agreement with Northridge. The agreement was for £16,582 over four years; with 47 monthly repayments of £345 and final repayment of £355. At the time, the car was around five years old, and had done 36,000 miles.

On 12 January 2023 Mr I was stopped by the police and was issued with a fixed penalty notice. He said he was told the car had illegal tints on the front windows. He said he was aware of the tints when he collected the car but didn't know they were illegal. He said he assumed they were legal as the car had just passed an MOT test that had been done by the supplying dealership.

He said he then took it to an independent garage as he was concerned about the smell of fuel, as well as the "pops and bangs" when he accelerated. He said the garage confirmed there had been modifications made to the exhaust system. This included the removal of the catalytic converters, and a poorly modified back box. The garage also said the car had been "remapped". It said that the modifications may lead to an MOT fail. It estimated the cost of repair to be more than £5,250.

Mr I said he complained to the supplying dealer in January 2023, and he said they told him they would replace the exhaust. He said they didn't do this, so he complained to Northridge in January 2023. He also complained that the car was "burning oil".

He said Northridge issued their Final Response Letter on 13 April 2023. He said they didn't uphold his complaint as they said the exhaust modification had been disclosed to him at the time of sale. He said they also told him they wouldn't accept rejection as he had fitted an aftermarket tracker and immobiliser. He said this was a recommended product and could be easily removed.

Mr I wanted Northridge to pay for the car to be repaired and the illegal parts replaced. Northridge didn't uphold Mr I's complaint. They said they had been told by the dealer that Mr I was aware of the modified exhaust and had agreed to buy the car for a reduced price rather than accepting the dealer's offer to replace the exhaust system. They also said the dealer had confirmed the car had been altered and the wiring tampered with by the firm Mr I had employed to install the aftermarket alarm system and immobiliser.

They acknowledged he was unhappy with the car and offered him a preferential settlement figure if he wanted to sell the car.

Mr I wasn't happy with Northridge's response, and he brought his complaint to the Financial Ombudsman Service for investigation.

Our investigator was satisfied that the window tints and the modified exhaust system showed there were faults with the car. He also said these would likely have prevented the car from passing an MOT and this made it not of a satisfactory quality. He said that Mr I should be able to reject the car as repairs were likely to be uneconomical.

Whilst waiting for Northridge to respond to our investigator's view, the car failed its annual MOT. The reason for failure was directly related to "both catalytic converters missing straight through pipes".

Northridge told our investigator they were discussing his view with the credit broker and the dealer. But because they failed to respond the matter was passed to me to make a final decision.

I issued a provisional decision on 6 March 2024. I reached the same outcome as our investigator, but I felt an award for the distress and inconvenience caused to Mr I was appropriate. Here's what I said:

Having done so, I'm likely to reach 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 I was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we're able to look into 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 were 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 the vehicle's roadworthiness. The key issue I have to consider is whether or not Northridge supplied Mr I with a car that wasn't of satisfactory quality. I'm satisfied it wasn't because of the window tints and because of the modifications to the exhaust system.

I've seen the penalty notice issued by the police. Whilst it doesn't specify the reason the car wasn't road legal; I think we can reasonably rely on Mr I's testimony that the tints were the reason for the notice.

I accept the dealer's comments that they didn't fit the tints onto the car. That may be the case, but I'm persuaded the tints were on the car when it was supplied to Mr I. He has told us that he was aware of the tints but thought they would be legal because the car had passed an MOT at the dealership. I can safely conclude from this testimony that the tints were on the car when supplied. And because they weren't road legal that made the car not of a satisfactory quality.

I've also seen the independent report about the exhaust system. There is no dispute that the car was supplied with a modified exhaust system. The dealer's testimony provided by Northridge tells me that.

The dealer said that Mr I was aware of the modified exhaust fitted to the car, and said he bought the car at a discounted price rather than have the exhaust replaced. So the dealer has admitted the car was supplied with a modified exhaust. And Northridge supplied that car

to Mr I under the hire purchase agreement.

We know the modified exhaust system wasn't road legal. That's because the independent report supplied by Mr I says that the absence of the catalytic convertors was likely to lead to an MOT fail. And that has been shown to be true – with the car failing an MOT in September 2023 for that very reason. That persuades me the car was not of a satisfactory quality at the time Northridge supplied it to Mr I.

I'm not persuaded by the argument that Mr I was aware and negotiated a discounted price. That's because there's no evidence of the modification mentioned other than in a pre-delivery check, a check that wasn't signed by both parties. But more importantly, the key issue here is that Northridge supplied Mr I with a car that was not of a satisfactory quality, and not road legal.

Putting thing right

I think it's reasonable that the car is rejected and returned to Northridge. I say that because, like our investigator, I think the cost of the repair compared to the amount Mr I borrowed makes the repair uneconomical. The extent of the necessary repairs may also have an impact on other components, and this may have lasting effects on the durability of the car. The car has been off the road and undrivable since it failed its MOT in September 2023. I'm aware that Mr I was not supplied with a courtesy car during this period. He's had to find alternative means of transport for him and his family during this period. So I'm satisfied they should refund all the payments he made since the date of the MOT fail.

Mr I obtained a diagnostic report to evidence the exhaust had been modified. If there was a cost for this report, Mr I should provide the invoice or proof of payment to Northridge. Once done, Northridge should refund the cost of the report to Mr I.

Mr I received a fixed penalty notice because of the illegal tints on the car that Northridge supplied to him. Northridge should refund the £100 fine to Mr I.

I agree with our investigator that we've not seen anything to show that the tyres supplied with the car were not road legal, so I won't be asking Northridge to refund that amount. If Northridge require it to be done, Mr I will need to arrange for the removal of the immobiliser he had installed.

Finally, it's clear that Mr I has been significantly inconvenienced by what's happened, and the apparent lack of any attempt to resolve this matter in a timely manner by Northridge. To find out in a police stop that the car was not road legal would have been distressing for Mr I. So, I think Northridge should pay him £300 to compensate him for this distress and inconvenience.

Therefore, Northridge should:

- end the agreement with nothing more to pay;
- collect the car at no cost to Mr I;
- remove any adverse entries relating to this agreement from Mr I's credit file;
- refund the £24,000 deposit Mr I paid (if any part of this deposit is made up of funds paid through a dealer contribution, Northridge is entitled to retain that proportion of the deposit);
- refund the £100 Mr I paid for the fixed penalty notice;
- refund any payments Mr I has paid since 12 September 2023;
- reimburse Mr I for any cost of the diagnostic report he may have incurred, on

production of proof of payment;

- *apply 8% simple yearly interest on the refunds and reimbursements, calculated from the date Mr I made the payment to the date of the refund†; and*
- *pay Mr I an additional £300 to compensate him for the trouble and inconvenience caused by being supplied with a car that wasn't of a satisfactory quality.*

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

Responses

Northridge didn't respond to my provisional decision. Mr I did. He wanted me to consider extra costs he had incurred. He said that there had been an attempted theft of the car from his drive in November 2023. He said that following this he had moved the car to a secure car park at the cost of £25 per week.

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 Mr I or Northridge have said anything to the contrary, I'm taking their comments, or lack of, to mean they don't object to my provisional view.

I've considered Mr I's comment that Northridge should refund his costs of parking the car in a secure area. I don't think it's fair or reasonable to require them to do that. Mr I said that the car is attractive to thieves. I can't say that Northridge are responsible for the car being in a place where it is vulnerable to theft. It is Mr I's responsibility to ensure, and insure, the car and protect it from being stolen.

I've been provided with no reason why I shouldn't now adopt my provisional view as my final decision.

Putting things right

Northridge should:

- end the agreement with nothing more to pay;
- collect the car at no cost to Mr I;
- remove any adverse entries relating to this agreement from Mr I's credit file;
- refund the £24,000 deposit Mr I paid (if any part of this deposit is made up of funds paid through a dealer contribution, Northridge is entitled to retain that proportion of the deposit);
- refund the £100 Mr I paid for the fixed penalty notice;
- refund any payments Mr I has paid since 12 September 2023;
- reimburse Mr I for any cost of the diagnostic report he may have incurred, on production of proof of payment;
- apply 8% simple yearly interest on the refunds and reimbursements, calculated from the date Mr I made the payment to the date of the refund†; and
- pay Mr I an additional £300 to compensate him for the trouble and inconvenience caused by being supplied with a car that wasn't of a satisfactory quality.

† If HM Revenue & Customs requires Northridge to take off tax from this interest, Northridge

must give Mr I a certificate showing how much tax they've taken off if he asks for one.

My final decision

For the reasons I've explained above I uphold Mr I's complaint. Northridge Finance Limited should put things right in the way set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr I to accept or reject my decision before 18 April 2024.

Gordon Ramsay
Ombudsman