

The complaint

Mrs W has complained about the quality of a car she acquired under a hire purchase agreement with NIIB Group Limited trading as Northridge Finance (NIIB).

What happened

To summarise, Mrs W acquired a used car under a four-year hire purchase agreement with NIIB in February 2023. The car cost around £7,500. It was around seven and a half years old and had covered around 73,000 miles. Monthly repayments are around £160.

Mrs W says the car was delivered to her daughter on 17 February 2023 and within days the start/stop mechanism wasn't working, and by 3 March 2023 a battery warning light was constantly illuminated. Mrs W says the supplying dealer told her it had a new battery and needed to be charged correctly. Mrs W says this didn't resolve the issue and the dealer told her to reset the service light and if that didn't work, to take it to a local garage. Mrs W says the car was taken to a local garage who said the wrong sort of battery was used and there were failures with the fuse management unit that needed replacing.

I understand the dealer sourced a replacement part which was fitted in April 2023, but fault codes remained. Mrs W said there were the following faults:

- Stop/start failure.
- Unable to lock.
- Alarm going off.
- Handbrake unable to release.
- Battery warning light.
- Engine warning light.

Mrs W said due to the unreliability of the car she was forced to hire a car for a pre-booked holiday in April 2023. But when returning to the car after a few days it wouldn't start because the battery was dead. Recovery agents were called but it noted issues with the battery. Further faults reappeared.

Mrs W said after several calls with the dealer and NIIB she arranged at her expense to have the car transported to the dealer in May 2023. The recovery cost £500. She said the dealer told her on 30 May 2023 the car had been fixed by the simple transfer of two connections that had been fitted incorrectly. The dealer said this was done incorrectly by the garage Mrs W chose. She said the dealer told her there were no other issues. Mrs W was worried there was an underlying fault that hadn't been addressed. She referred her complaint to the Financial Ombudsman. I understand the car was returned to Mrs W on 10 August 2023. Mrs W said she felt she had no choice but to accept the return. She said the battery was flat again when she went to collect it, but the dealer said this was because it had been left idle for a few weeks. I understand the dealer fitted a new battery and said there were no faults aside from a permanent service light still on.

Mrs W said she drove the car back and it was used for a short while before the electric fault signal kept coming on and off. She said by the 25 August 2023 the battery was dead again

and the car was off the road. Mrs W said the dealer didn't think this was the same fault and she felt fobbed off. She took the car to a main dealer, and I think it replaced the power supply protection and management box at a cost of £675.10. I understand a warranty Mrs W had paid £517.30 towards the costs. The mileage at that point was around 75,700.

One of our investigators looked into things and decided to uphold the complaint. He thought there was sufficient evidence the car wasn't of satisfactory quality due to the issues in relation to the battery. He said the repairs that'd taken place seem to have resolved things, but he thought NIIB should return certain costs to Mrs W. He said NIIB should reimburse Mrs W 50% of a months' rental for the time she didn't have the car; pay £500 for the recovery costs; pay £157.70 in relation to the shortfall in repair costs; and pay £150 compensation.

I can't see we received a response from NIIB. Mrs W broadly accepted the assessment but wanted to highlight the car was in for repairs for around two and a half months. She said part of the delay was down to her wanting independent assurance the car was fixed. She questioned why the hire costs weren't being refunded but our investigator explained the costs were paid by Mrs W's daughter so he couldn't fairly direct NIIB to reimburse Mrs W.

I issued a provisional decision that said:

I want to acknowledge I've summarised the events of the complaint. I don't intend any discourtesy by this – it just reflects the informal nature of our service. I'm required to decide matters quickly and with minimum formality. But I want to assure Mrs W and NIIB that I've reviewed everything on file. And if I don't comment on something, it's not because I haven't considered it. It's because I've concentrated on what I think are the key issues. Our powers allow me to do this.

Mrs W acquired the car under a hire purchase agreement. Our service is able to consider complaints relating to these sorts of regulated consumer credit agreements.

The Consumer Rights Act 2015 (CRA) covers agreements like the one Mrs W entered into. The CRA implies terms into the agreement that the quality of goods is satisfactory. NIIB is the "trader" for the purposes of the CRA and is therefore responsible for dealing with a complaint about their quality.

The CRA says that the quality of the goods is satisfactory if they meet the standard a reasonable person would consider satisfactory – taking into account the description of the goods, the price or other consideration for the goods (if relevant) and all other relevant circumstances. For this case, I think the other relevant circumstances include the age and mileage of the car at the point of supply.

In Mrs W's case, the car supplied was used and had covered around 73,000 miles. There'd be different expectations than if it was a brand-new car.

The CRA sets out that goods which do not conform to the contract at any time within the period of six months beginning with the day on which the goods were delivered to the consumer must be taken not to have conformed to it on that day unless it's established the goods did conform to the contract on that day or that the application is incompatible with the nature of the goods or with how they fail to conform to the contract.

It doesn't seem to be in dispute there was a fault with the car. The evidence indicates there was a fault with the power supply protection and management system. The fault manifested within a couple of months of Mrs W acquiring the car. The repair ended up costing a significant sum – nearly £700. And I think the fault was present or developing when the car

was supplied. I don't think a reasonable person would have expected that sort of issue to have been present or developing at the point of supply, and I think the fault made the car of unsatisfactory quality.

NIIB were put on notice about the complaint within a couple of months of the car being supplied. It liaised with the dealer, and I can understand the dealer tried various options to resolve things, but I'm not persuaded the repairs it carried out resolved the underlying issue. It seems the issue was only resolved when Mrs W took the car to a main dealer for the repair.

Even though I think Mrs W likely did have fair grounds to seek rejection, it seems as though the repair has worked, and Mrs W is prepared to keep the car. So what's left to decide is how to put things right.

I agree the £500 transport costs should be refunded to Mrs W. Those costs were as a result of the breach of contract. I think the car was with the supplying dealer for nearly three months. The dealer said it was repaired within a couple of weeks. I can understand why Mrs W was apprehensive to pick it up given the previous problems she'd had. On the one hand, there's an expectation for the customer to mitigate the impact of the problem. But on the other hand, I'm conscious it looks like the repair the dealer carried out turned out not to have resolved the problem. There's no perfect solution here. But I'm minded to say Mrs W should be refunded two months' payments in recognition of the loss of use. There would have been costs involved for transport given the car was with the dealer. Arguably the dealer could have also done more to support the retrieval and return of the car given I think there was a breach of contract. I think a refund of two payments seems like a fair proposal in the circumstances.

I agree Mrs W should be refunded £157.70 in relation to the shortfall in repair costs that are in relation to the breach of contract. And I also agree the matter has no doubt caused some overall inconvenience to Mrs W. It must have been really frustrating to have the problems relating to the fault occur shortly after acquiring the car, and for it not to be resolved within a reasonable amount of time. I imagine it took away a lot of the enjoyment of acquiring the car. I agree a £150 compensation payment is fair in the circumstances.

I agree with our investigator that I don't have the grounds to direct NIIB to reimburse Mrs W for the hire car costs. It's not clear that loss was Mrs W's and that it directly flowed from the breach of contract.

Mrs W accepted the decision. I can't see we received a response from NIIB.

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.

Seeing as though Mrs W has accepted the decision, and I've not been provided anything materially new to consider, I see no reason to depart from the conclusions I reached in my provisional decision, although I am going to correct the reimbursement for the shortfall in repair costs from £157.70 to £157.80 (£675.10 - £517.30).

Putting things right

I direct NIIB Group Limited trading as Northridge Finance to:

- Reimburse Mrs W £500 in relation to the transport costs from 15 May 2023.

- Reimburse Mrs W £157.80 in relation to the shortfall in repair costs from 25 September 2023.
- Interest should be added to the above amounts at a rate of 8% a year simple from the date each payment was made, to the date of settlement.
- Refund Mrs W two payments (£320.18) for loss of use.
- Pay Mrs W £150 compensation.

NIIB can ask for proof of payment if required.

If NIIB considers it is required to deduct tax from my interest award it should provide Mrs W a certificate of tax deduction so she may claim a refund from HMRC, if appropriate.

My final decision

My final decision is that I uphold this complaint and direct NIIB Group Limited trading as Northridge Finance to put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 10 May 2024.

Simon Wingfield
Ombudsman