

Complaint

Mr K has complained about the quality of a car that N.I.I.B. Group Limited (trading as “Northridge” Finance) supplied to him through a hire-purchase agreement.

Background

In January 2023, Northridge provided Mr K with finance for a used car. The car was just around three and a half years old and had completed 57,248 miles. The cash price of the vehicle was £11,990.00. Mr K paid a deposit of £500 and applied for finance to cover the remaining £11,490.00 he needed to complete his purchase. Northridge accepted Mr K’s application and entered into a 49-month hire-purchase agreement with him.

The loan had an APR of 12.9%, interest, fees and total charges of £4,224.16 (comprising of interest of £4,114.80 and an option to purchase fee of £10) and the total amount to be repaid of £15,614.16 (not including Mr K’s deposit) was due to be repaid in 48 monthly instalments of £229.92 followed by an optional final payment of £4,578.00 which Mr K has to pay if he wishes to keep the vehicle at the end of the term.

In August 2023, the vehicle broke down while Mr K was driving. Mr K called his breakdown provider and as it was unable to get the car started. The vehicle was subsequently recovered to a garage of Mr K’s choosing and a number of repairs were made to it. Mr K has supplied an invoice which shows that the repairs cost £1,704.01. Mr K complained to Northridge and asked to be reimbursed for his costs.

Northridge reviewed Mr K’s complaint and didn’t uphold it. It said that Mr K had independently arranged a repair and if this repair had failed then this wasn’t a matter that it was responsible for. It nonetheless offered Mr K £500 towards the cost of repairs as a gesture of goodwill. Mr K was dissatisfied at Northridge’s response and referred his complaint to our service.

Prior to Mr K’s complaint being referred to an investigator, he got in touch to say that the car had broken down for a second time. Mr K’s complaint was reviewed by one of our investigators. She thought that Northridge had supplied Mr K with a vehicle that was not of satisfactory quality and thought that it was responsible for covering the cost of the repair. However, she didn’t think that there was any evidence to support that the repair had failed and so didn’t think that Mr K should be able now be able to reject the car.

Mr K didn’t accept the investigator’s view. He thought that he should be allowed to reject the car given all of the issues. And despite being chased on a number of occasions, Northridge did not respond to the investigator’s assessment.

As neither party accepted the investigator’s assessment, the case was passed to an ombudsman as per the next stage of our dispute resolution process.

My findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable

in the circumstances of this complaint.

I'm satisfied that what I need to decide in this case is whether the car supplied to Mr K was of satisfactory quality. Should it be the case that I don't think it was, I'll then need to decide what's fair, if anything, for Northridge to do put things right.

Where the evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

The finance agreement in this case is a regulated hire-purchase agreement, which we are able to consider complaints about. Under the hire-purchase agreement, Northridge purchased the vehicle from the dealership Mr K visited. Mr K then hired the vehicle from Northridge and paid a monthly amount to it in return. Northridge remained the legal owner of the vehicle under the agreement until Mr K's loan was repaid.

This arrangement resulted in Northridge being the supplier of Mr K's vehicle and so it is also responsible for answering a complaint about its quality.

The Consumer Rights Act 2015 ("CRA")

The CRA covers hire-purchase agreements – such as Mr K's agreement with Northridge. Under a hire-purchase agreement, there are implied conditions that the goods supplied will be of satisfactory quality.

The CRA says the aspects of the quality of the goods and whether they are satisfactory 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.

Is or was there a fault with the vehicle?

Having carefully considered matters, I'm satisfied that there at least was a fault on the vehicle. I say this because Mr K has provided a report from a breakdown provider which confirms that the vehicle broke down and it couldn't get the car started as it suspected there was a fault with the Electrical Control Unit ("ECU"), which needed further diagnostic checks in a workshop.

Mr K has also provided an invoice from a garage which confirms that there was an issue with the injectors in the car not pulsing. This required the timing belt and water pump to be replaced. So while there may be some dispute over who is ultimately responsible for this and what this means, it is not in dispute that the car needed repairs before it once again became operational, at least for a period in October 2023.

I am therefore satisfied that there, at least, was fault with the vehicle.

As this is case, I'll now proceed to decide whether the fault which I'm satisfied was present on the vehicle, in August 2023, means that the car wasn't of satisfactory quality at the point of supply.

Was the vehicle that Mr K was supplied with of satisfactory quality?

Mr K acquired a car that was used – it was approaching three and a half years old when it was sold and had completed 57,248 miles. I accept that there would be different expectations regarding its quality when 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, price and any other relevant factors.

In this case, Mr K had difficulties with the car within seven months of it being supplied to him. It had broken down while being driven and the breakdown provider couldn't rectify any issues at the roadside. The available evidence from the garage Mr K had the car taken to after it broke down suggests that the fuel injector as well as the timing belt needed replacing.

One of the considerations of whether goods are of satisfactory quality is durability. Here, the vehicle needs substantial repair work to the timing belt and the fuel injection system. I appreciate that the vehicle had completed approaching 60,000 miles by the time of purchase and it had also been in Mr K's possession for around seven months by the time of the repairs. But even though the vehicle had been driven for nearly 60,000 miles, I still need to weigh this against the fact that Mr K had paid close to £12,000.00 for it.

I think that a reasonable person would expect him to have had far more use of a vehicle costing £12,000.00 – notwithstanding the mileage completed prior to the purchase - before such a substantial repair, to multiple components on the car, would be needed.

Taking all of this into account, the fact that both the fuel injector and the timing belt needed replacing within seven months of Mr K acquiring the car means that I don't think the car was of satisfactory quality when Northridge supplied it to Mr K.

Should Mr K be allowed to reject the car?

As I've set out in the section above, there is no dispute that the car needed repair work in relation to the fuel injection system and the timing belt in August 2023. I've also considered that Mr K has said that the repair carried out after the breakdown wasn't the only repair to the car. However, I've not seen anything to indicate that Mr K attempted to reject the vehicle prior to October 2023.

Furthermore, it isn't in dispute that Mr K independently arranged for the repair to be carried out. And I'm satisfied that Mr K's conduct, in this regard, is indicative of him accepted a repair to the car at this point. So I don't think that it would be fair and reasonable for Mr K to now reject the car should it be the case that he's simply changed his mind.

That said, the CRA does permit a customer the opportunity to reject a vehicle after a failed repair and if it is the case that the repair did not rectify matters, Mr K would be entitled to reject the car. Therefore, it seems to me that I need to consider whether the repair Mr K arranged on the vehicle was successful and whether Mr K consequently lost any possible right to reject the vehicle (under the CRA) for this matter.

I've carefully considered the position.

I understand and appreciate that Mr K says that the repair on the car hasn't rectified matters. However, the copy of the invoice Mr K has supplied states that the car was tested after the repairs and that everything ran correctly. Mr K has said that the car broke down again after this in December 2023 and he's been unable to properly drive the car since.

However, from the information Mr K has provided it appears as though the issues in December 2023, were to do with the Diesel Particulate Filter ("DPF") requiring cleaning. He's provided an invoice to show that he paid £194 for the DPF to be cleaned in early January 2024.

While I appreciate that Mr K has said that he's been told that this may be connected to an issue with the fuel pressure system (which in turn could be connected to the repair), I've not been provided with sufficient evidence to persuade me that the DPF requiring cleaning is more likely than not linked to the repairs that were previously carried out. I note that the DPF cleaning was carried out by the same garage that repaired the fuel injector and timing belt and the invoice supplied does not draw a link with previous issues. Finally, I note that the invoice states that the car was restored to full working order.

For the sake of completeness, I would add that, in my view, cleaning the DPF of soot and any other material is part of the routine maintenance that a car owner would reasonably expect to have to carry out over the period of time that they have custody of a vehicle. So I don't think that the DPF requiring cleaning in itself means that the car was not of satisfactory quality.

I'm also mindful that publicly available records show that the car passed its MOT in January 2024. This was after the DPF cleaning took place and after the car had been returned to Mr K. It's difficult to see how the car would have passed its MOT had it been inoperable.

Equally, I've not seen that any advisory notices were issued in relation to the timing belt, fuel injector, or anything else that was repaired in the period between August 2023 and October 2023. Indeed there aren't any advisory notices at all recorded for the January 2024 MOT. Furthermore, MOT records also show that the car had a recorded mileage of 71,148 at this stage which indicates that Mr K was able to drive the car.

I appreciate that the car passing an MOT merely indicates that it was roadworthy and doesn't in itself mean that the car was of satisfactory quality, or that the repair was successful. However, it's fair to say that the lack of any advisory notices relating to the car's fuel injector or timing belt, does not support any argument that the repair failed.

I also note that Mr K has not provided a copy of an independent report, or some other confirmation of there currently being a fault of any description on the car. In these circumstances and without any other corroboration of a fault related to the repair, or for that matter any other kind of fault at all, currently being present on the vehicle, I'm simply not in a position where I can reasonably conclude that the available evidence shows that the repair which Mr K arranged failed.

Nonetheless, if Mr K changes his mind and wishes to obtain an independent report or other similar evidence and information showing that a fault is present, he's free to provide this to Northridge for it to consider in the first instance. For now, bearing in mind what I've been provided with during the course of this complaint, I've not been persuaded that it is more likely than not that there are faults linked to the repair that was completed on the car in October 2023.

Mr K accepted a repair for the faults which manifested in August 2023, by independently arranging it. This repair appears to have successfully resolved what was wrong with the car at that time and I've not been provided with any other corroborating evidence to support that either the same fault or another fault with the car has since presented either. In these circumstances, I'm satisfied that it would not be fair and reasonable for me to direct Northridge to now accept Mr K's rejection of the vehicle.

What Northridge needs to do to put things right for Mr K

Even though Mr K accepted a repair of the car and this means that it now would not be fair and reasonable for him to reject it, as Northridge supplied him with a vehicle that was not of

satisfactory quality, I don't think that it would be fair and reasonable for Mr K to bear the cost of any repairs related to the fault from August 2023.

Mr K has supplied a copy of an invoice for £1,704.01 which he paid in October 2023. So to start with I think that Northridge should reimburse the £1,704.01 he paid for these repairs, plus interest at 8% simple a year until the date that Northridge settles his complaint.

From what I've seen Mr K did not have use of the car from when it was recovered by the breakdown provider after it broke down, in August 2023, until the repair was completed in October 2023. It's my understanding that Mr K was not provided with a loan or hire car during this period and was without a vehicle during this time.

So unless Northridge can supply evidence that Mr K did have the use of a loan or hire car, it should refund the payments that Mr K made in September 2023 and October 2023, plus interest at 8% simple a year until the date that Northridge settles his complaint.

I now turn to any distress and inconvenience Mr K may have experienced. I appreciate that Mr K may have been without a car for a period, he had the inconvenience of arranging repairs and he had to chase Northridge to try and put things right all because he was supplied with a car that was not of satisfactory quality. However, I've already said that – subject to Northridge not providing evidence to show that Mr K was provided with a loan or hire car – Mr K should have his payments refunded for the period while the car was being repaired.

I also note that Mr K is extremely unhappy with the way Northridge has corresponded with him during the course of his complaint. For example, failing to supply information and failing to return phone calls. Nonetheless, I have to be mindful of the fact that complaint handling isn't an activity that I'm able to consider a complaint about.

So, while I can consider whether Northridge supplying a vehicle that wasn't of satisfactory quality caused distress and inconvenience to Mr K, I cannot make an additional award of compensation for Northridge's poor complaint handling – its failure to engage with Mr K during the course of his complaint.

Having kept all of this in mind and what I'm able to make an award for, I'm satisfied that Mr K being supplied with a car that was not of satisfactory quality caused him more than the levels of frustration and annoyance typically associated with ordinary life. So Northridge should pay Mr K £200 in compensation to reflect this.

Mr K's comments regarding interest being added to his account after the investigator's assessment

I've seen that Mr K's comments regarding Northridge unfairly adding interest and charges to his agreement as a result of missed payments. Mr K says these payments weren't missed as he had an agreement with Northridge that payments would be paused pending the outcome of his complaint.

I appreciate that Mr K may be annoyed and frustrated at Northridge's actions. However, this matter did not form part of his original complaint to Northridge – indeed Mr K has said that he's requested a copy of the phone call where he says Northridge agreed to pause payments. I'm only allowed to consider matters after a respondent firm has had a formal opportunity to respond to a complaint.

If Mr K wants to make a formal complaint about the interest that has been added to his agreement, once he's listened to the phone call he has requested, he'll need to make this to

Northridge in the first instance. Should Mr K be unhappy with Northridge's response he may – subject to any jurisdiction concerns – be able to refer the matter to us to consider.

Furthermore, should Mr K feel that Northridge has failed, or goes on to fail, to exercise forbearance and due consideration in relation to any missed payments in line with its obligations to do so, Mr K can also formally complain about this matter too.

Fair compensation – what Northridge needs to do to put things right for Mr K

Overall and having considered everything, I think it is fair and reasonable for Northridge to put things right for Mr K by:

- refunding his September 2023 and October 2023 monthly payments *unless* it can show that Mr K had a loan or hire car during the period the vehicle supplied was being repaired;
- reimbursing him the £1,704.01 he paid for the repairs carried out on the car;
- adding interest at 8% per year simple on any refunded and reimbursed payments from the date they were made by Mr K to the date the complaint is settled†;
- paying him £200 in compensation for the distress and inconvenience that was caused.

† HM Revenue & Customs requires Northridge to take off tax from this interest. Northridge must give Mr K a certificate showing how much tax it has taken off if he asks for one.

My final decision

For the reasons I've explained, I'm upholding Mr K's complaint. N.I.I.B. Group Limited (trading as "Northridge" Finance) should put things right for Mr K in the way I've directed it to do so above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 30 December 2024.

Jeshen Narayanan
Ombudsman