

The complaint

Ms B is unhappy that a car supplied to her under a hire purchase agreement with N.I.I.B. Group Limited trading as Northridge Finance ('Northridge') was of an unsatisfactory quality.

What happened

In March 2023, Ms B was supplied with a used car through a hire purchase agreement with Northridge. She paid a total deposit of £3,864.25 and the agreement was for £14,528.75 over 60 months; with 59 monthly payments of £311.40 and a final payment of £321.40. At the time of supply, the car was around three years and three months old. According to the MOT record for 15 November 2022 it had done 49,139 miles, and it was advertised for sale as having done 50,642 miles.

Ms B says that, shortly after having been supplied with the car, she discovered issues with the folding mirrors and seatbelts not working correctly. She says she took the car back to the supplying dealership in early June 2023, and they repaired these items at no cost to her. However, they didn't provide her with any paperwork for this.

The car broke down on 27 October 2023 due to a broken gear selector cable. At the time of the breakdown the car had done 59,412 miles, around 9,000 miles since it was supplied to Ms B. The car was initially recovered to Ms B's home address, and then subsequently to the supplying dealership. Ms B was told that it would cost her £70 to have the car inspected and around £400 for it to be repaired (although this was later reduced to £360). Unhappy with this, Ms B complained to Northridge.

Northridge didn't respond to Ms B's complaint within the timescales set down by their regulator, so she brought the matter to the Financial Ombudsman Service for investigation.

Our investigator said the fault with the gear selector cable made the car of an unsatisfactory quality, and as the dealership had previously attempted a repair on the car, Ms B should now be allowed to reject it. So, the investigator said Northridge should take back the car and unwind the agreement, refund the deposit Ms B paid, refund the payments Ms B had made since 27 October 2023, and pay her an additional £200 for the trouble and inconvenience she'd been caused.

Ms B accepted the investigator's opinion, but Northridge didn't respond. Where a financial business doesn't respond to an investigator's opinion, we assume they have rejected it. As such, 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. Where evidence has been incomplete

or contradictory, I've reached my view on the balance of probabilities – what I think is most likely to have happened given the available evidence and wider circumstances.

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. Ms B 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 Ms B to show it was present when the car was supplied.

So, if I thought the car was faulty when Ms B 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 a copy of the breakdown report which shows the gear selector cable failed. And a fault of this nature means the car cannot be driven. I note this failure happened after Ms B had been in possession of the car for seven months, so the CRA doesn't assume the fault was present when the car was supplied. I also note that Ms B hasn't provided anything i.e., a report by an independent engineer, that shows me the fault was present or developing at the point of supply.

However, I also need to consider the durability of the car. Given the age and mileage, I don't think any reasonable person would expect the gear selector cable to fail. As such, I'm satisfied the car wasn't reasonably durable when it was supplied, which made it not of a satisfactory quality.

Northridge, despite having had the opportunity to do so, haven't provided any evidence i.e., a letter from the dealership, that contradicts Ms B's statements that the car was taken back for repair shortly after being provided to her. Based on this, I see no reason not to accept her testimony as to what happened.

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 conform 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.

For the reasons given, I'm satisfied that the single chance of repair happened. So, while the failure of the gear selector cable isn't related to the repairs that had already taken place,

Northridge only have the right to attempt a further repair if Ms B wants this, which she doesn't. As such, in these circumstances, I'm satisfied that Ms B has the right of rejection, and Northridge should now accept the car back and unwind the agreement.

Putting things right

Ms B was able to use the car while it was in her possession, until the gear selector cable failed on 27 October 2023. After this point, the car became undrivable, and I've noted the MOT expired on 11 December 2023 and was not renewed, and that the car has been registered as off the road by way of a SORN. As such, I'm satisfied that, from 27 October 2023, Ms B was paying for goods she was unable to use. As, for the reasons already stated, I'm satisfied the car was off the road due to it being of an unsatisfactory quality when it was supplied, and as Northridge failed to keep Ms B mobile; I'm satisfied they should refund the payments she made during this period.

It's clear that Ms B has been inconvenienced by having to arrange for the car to be recovered to the dealership, and by the impact of not having any transportation from October 2023 onwards. So, I think Northridge should compensate her for this. The investigator had recommended Northridge pay her £200, 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, Northridge should:

- end the agreement with nothing more to pay;
- collect the car at no cost to Ms B;
- remove any adverse entries relating to this agreement from Ms B's credit file;
- refund the deposit Ms B 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 payments Ms B has made from 27 October 2023 onwards;
- apply 8% simple yearly interest on the refunds, calculated from the date Ms B made the payments to the date of the refund[†]; and
- pay Ms B an additional £200 to compensate her 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 Ms B a certificate showing how much tax they've taken off if she asks for one.

My final decision

For the reasons explained, I uphold Ms B'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 Ms B to accept or reject my decision before 4 June 2024.

Andrew Burford
Ombudsman