

## The complaint

Mr R 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.

Mr R has been represented during the claim and complaint process by Mrs R. For ease of reference, I will refer to any comments made, or any action taken, by either Mr R or Mrs R as “Mr R” throughout the decision.

## What happened

In November 2021, Mr R was supplied with a used car through a hire purchase agreement with Northridge. He paid an advance payment of £1,500 and the agreement was for £9,349 over 60 months; with 59 monthly payments of £196.17 and a final payment of £206.17. At the time of supply, the car was around four and a half years old and had done around 45,000 miles.

Mr R started to have problems with the car, and, on 6 May 2022, the turbocharger was replaced at the cost of £951.14. At the time of this repair the car had done 50,005 miles. However, this didn't fix the problem and, on 10 May 2022, the turbocharger feed and return pipes were replaced at a further cost of £144.47. At the time of the second repair, the car had travelled 50,037 miles.

Mr R continued to use the car following this repair and, in March 2023 the car broke down and needed to be recovered. The car was inspected, with a repair attempted, and Mr R was provided with a diagnosis of the faults with the car. This said there was a large build-up of carbon around the camshafts and valves, which had contributed to the failure of the turbo. This also said that a compression test was severely low, which was causing a reduced performance, and the low compression was most likely caused by the large build-up of carbon. The cost of the attempted repair and diagnosis was £2,828.38.

Mr R says he was told that the car had the ‘black death’ and needed a new engine. He complained to Northridge and arranged for the car to be inspected by an independent engineer. This inspection took place on 9 August 2023, at which point the car had done 61,385 miles.

The independent engineer said *“we are unable at this stage to establish the cause of [the reported faults] nor can we confirm the cause of the reported lack of compression ... to confirm the physical condition of the engine it would need to be dismantled ... excessive carbon and old degraded oil deposits were noted on the valve train ... the condition identified at the time of the inspection may be the result of internal engine wear and deterioration but could also be related to turbocharger deterioration.”*

The engineer said that the car had travelled over 11,000 miles since the turbocharger was repaired and concluded *“the vehicle has covered some considerable mileage since point of sale and at this stage there is no evidence to indicate these conditions were pre-existing. It also appears that the vehicle may have covered approximately 10,000 miles since the last*

*repair, under those circumstances it very unlikely this condition is related to those repairs unless the turbocharger is again defective.”*

Northridge rejected Mr R’s complaint so he brought it to the Financial Ombudsman Service for investigation.

Following a review of the evidence, our investigator said the heavy carbon build-up that caused the previous turbocharger to fail was as a result of oil starvation. The investigator also said the carbon build up can take tens of thousands of miles to form. The car was supplied to Mr R with no service history, so the investigator thought the carbon build up was likely present/developing at the point of supply. This led to the car failing prematurely. As such, the investigator thought the car wasn’t of a satisfactory quality when it was supplied to Mr R, in particular that it wasn’t sufficiently durable.

Due to Northridge not responding to the complaint, and the time that’s passed, the investigator said that Mr R should now be allowed to reject the car and receive a refund of his deposit. And, as he stopped using the car on 24 July 2022, he should be refunded all payments he’d made since that date. In addition to this, the investigator said that Northridge should refund the £1,095.61 Mr R paid for the repairs to the turbocharger, the £264 he’d paid for the independent engineer’s report, and pay him £200 for the distress and inconvenience he’d been caused.

Northridge didn’t respond to the investigator’s opinion, so it’s been assumed that they didn’t agree with it

I issued a provisional decision on 8 May 2024, where I explained my intention to uphold the complaint. In that decision I said:

*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 R 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 R to show it was present when the car was supplied.*

*So, if I thought the car was faulty when Mr R 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 independent engineer’s report, dated 9 August 2023. The key findings of this report are quoted above, so I won’t repeat them here. However, I’ve noted*

*that the engineer also confirmed their duty is to the courts, not to the person who instructed or paid for the report. As such, I'm satisfied this report is reasonable to rely upon.*

*I've also seen the diagnosis report following the inspection that took place in late March 2023. As this was carried out by an independent technician and was based on a partial strip-down of the engine, I'm also satisfied this is reasonable to rely upon.*

*Both reports are clear in that there are faults with the car that were likely caused by poor maintenance and/or oil starvation to the turbocharger. I've reviewed the MOT record for the car, which shows an oil leak was present when the car was inspected on 23 March 2021, 25 March 2022, and 17 March 2023. As the car was supplied to Mr R in November 2021, I'm satisfied that Mr R would have been aware the car had an oil leak by no later than 25 March 2022. However, this hadn't been repaired by the time of the March 2023 MOT, which was shortly before the engine failed due to the faults already detailed.*

*In his testimony, Mr R has said that he was told on multiple occasions that the oil leak was minor and that he didn't need to take any action. He's also provided an invoice for the service that was carried out in July 2022, which includes replacement sump seals to fix the "slight oil leak." Based on this, I'm satisfied that Mr R attempted to repair the oil leak and, when this didn't work, he was advised it was minor and, essentially, not to worry about it.*

*However, based on the independent reports, oil starvation that was possibly caused by the oil leak was a contributory factor to the failure of the car. And it's clear from the MOT evidence that the oil leak was present before the car was supplied to Mr R.*

*What's more, I'm in agreement with the investigator that the carbon build up, which resulted in carbon deposits blocking the oil pipes, takes tens of thousands of miles to occur. So, I'm satisfied this build up was happening before the car was supplied to Mr R, especially given the need to replace the turbo feed pipes in May 2022 due to blockages – blockages that continued to happen due to the continued build-up of carbon deposits.*

*Given all of this, I'm satisfied the car wasn't of a satisfactory quality when it was supplied to Mr R and, as such, Northridge need to do something to put things right.*

*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 the time that's passed, during which Northridge haven't engaged with the complaints process, it's arguable they've failed to comply with Section 23(2)(a) of the CRA. And, in these circumstances, Mr R should be able to reject the car.*

*The car has been off the road and undrivable since it broke down on 28 March 2023 (not 24 July 2022 as stated by the investigator in their opinion). Since this date Mr R hasn't been supplied with a courtesy car. As such, he was paying for goods he 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 Mr R mobile; I'm satisfied they should refund the payments he made during this period.*

*Mr R has also provided invoices for repairing the car and having the car inspected. These are:*

- £951.14 on 6 May 2022 – first turbocharger repair

- £144.47 on 10 May 2022 - second turbocharger repair
- £2,838.38 on 7 March 2024 – inspection, diagnosis, and repairs to the car following the breakdown in March 2023

*Given that the car wasn't of a satisfactory quality when supplied, I think it's only fair that Northridge reimburse / pay these costs.*

*Finally, it's clear that Mr R has been inconvenienced by what's happened. So, I think Northridge should compensate him for this. The investigator had recommended Northridge pay him £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 decision.*

*Therefore, I intend to direct Northridge to:*

- *end the agreement with nothing more to pay;*
- *collect the car at no cost to Mr R;*
- *remove any adverse entries relating to this agreement from Mr R's credit file;*
- *refund the deposit Mr R 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 Mr R has made since 28 March 2023;*
- *upon receipt of proof of payment, reimburse Mr R for the repair costs stated above (if any of these invoices are still outstanding, then Northridge should settle them direct with the supplier);*
- *apply 8% simple yearly interest on the refunds/reimbursements, calculated from the date Mr R made the payments to the date of the refund/reimbursement<sup>†</sup>; and*
- *pay Mr R an additional £200 to compensate him for the trouble and inconvenience caused by being supplied with a car that wasn't of a satisfactory quality.*

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

## **Responses**

Northridge said they'd referred the matter to the supplying dealership for their comments. However, they didn't provide these comments or ask for any time extension to do so. Instead, they emailed Mr R and asked for the whereabouts of the car and for the invoices / receipts for the repairs, so they could implement our 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.

As Mr R hasn't said anything to the contrary, I'm taking his lack of comments to mean he doesn't object to my provisional decision.

While Northridge haven't provided any specific comments, I'm also taking the email they sent Mr R asking for information so they can implement my provisional decision to mean they also don't object to this decision.

Given this, I see no compelling reason why I shouldn't now adopt my provisional decision as my final decision and ask Northridge to put things right.

## **Putting things right**

For the reasons stated in my provisional decision, as repeated above, Northridge should:

- end the agreement with nothing more to pay;
- collect the car at no cost to Mr R;
- remove any adverse entries relating to this agreement from Mr R's credit file;
- refund the deposit Mr R 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 Mr R has made since 28 March 2023;
- upon receipt of proof of payment, reimburse Mr R for the repair costs stated above (if any of these invoices are still outstanding, then Northridge should settle them direct with the supplier);
- apply 8% simple yearly interest on the refunds/reimbursements, calculated from the date Mr R made the payments to the date of the refund/reimbursement<sup>†</sup>; and
- pay Mr R an additional £200 to compensate him for the trouble and inconvenience caused by being supplied with a car that wasn't of a satisfactory quality.

<sup>†</sup>If HM Revenue & Customs requires Northridge to take off tax from this interest, Northridge must give Mr R 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 R'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 R to accept or reject my decision before 26 June 2024.

Andrew Burford  
**Ombudsman**