

The complaint

Mr R complains about the quality of a car supplied to him via hire purchase by N.I.I.B. Group Limited trading as Northridge Finance ('NF').

What happened

The parties are familiar with the background details of this complaint – so I will briefly summarise them here. It reflects my informal remit.

Mr R says that within the first few months of having the car the engine management light came on and he was initially led to believe the car needed a software update – then a new engine. He said that since then (and despite repairs) the car has had constant issues with the engine light coming on.

Mr R says he no longer feels safe in the car and wants to reject it.

Our investigator agreed that Mr R could reject it – but NF did not. Therefore, the matter has come to me for 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.

While I might not comment on everything (only what I consider key) this is not meant as a discourtesy to either party – it reflects my role resolving disputes informally.

In considering what is fair and reasonable, I need to have regard to the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and (where appropriate) what I consider to have been good industry practice at the relevant time.

The agreement in this case is a regulated consumer credit agreement. As such, this service is able to consider complaints relating to it. NF is also the supplier of the goods under this type of agreement, and responsible for a complaint about their quality.

The Consumer Rights Act 2015 is of particular relevance to this complaint. It says that under a contract to supply goods, there is an implied term that "the quality of the goods is satisfactory".

The Consumer Rights Act 2015 says the quality of goods are satisfactory if they meet the standard that a reasonable person would consider satisfactory taking into account any description of the goods, the price and all the other relevant circumstances. So it seems likely that in a case involving a car, the other relevant circumstances a court would take into account might include things like the age and mileage at the time of sale and the vehicle's history.

The Consumer Rights Act 2015 ('CRA from now on') says the quality of the goods includes their general state and condition and other things like their fitness for purpose, appearance

and finish, freedom from minor defects, safety, and durability can be aspects of the quality of goods.

At the end of December 2021 NF supplied Mr R with a second-hand car that was almost 4 years old and had done around 32,000 miles at the point of supply. The dealer priced it at around £17,000 which is less than what a new or newer model with less mileage would cost. It is fair to say that in these circumstances a reasonable person would consider that the car had already suffered some wear and tear – and was likely to require more maintenance than you might see on a newer, less road worn model. However, this car was not particularly old or high mileage, or inexpensive – so I think there would still be reasonably high expectations as to quality and durability here.

Based on the characteristics I have described above, it would not be reasonable to expect significant components like the engine to display problems at an early stage. However, that is what appears to have occurred in this case. I will explain.

I note that Mr R has been consistent in saying that the engine management light ('EML') illuminated within the first few months of having the car. I can see this is corroborated by a record from the dealer ('Dealer A') in April 2022 where it is confirmed the light is on and diagnosed this as the need for a software update. Mr R had only travelled in the car around 3,000 miles at this point. Mr R says he was told not to worry and he would be booked into a main dealer to have the update carried out in a few months. This backstory all seems credible based on the fact that Mr R then months later attended the main dealer ('Dealer B') for the software update.

However, it appears Dealer A misdiagnosed the issues and they were in fact not as benign as a software issue. Dealer B looked at the car in July 2022 (at this point Mr R had travelled about 6,000 miles in it) and reports confirm:

- it was investigating an illuminated EML;
- the timing belt was 'breaking up and split'; and
- it advised stripping and inspecting or replacing the engine.

It then seems that Dealer B sent Mr R a message confirming:

Engine Timing belt breaking up - rubber running through engine - engine replacement advised

A quote for a new engine was included for £5,426.12.

I think it is fair to conclude – based on the information up to this point that the car was not of satisfactory quality at the point of sale. Mr R had agreed to a car with relatively low age and mileage – and considering this and the cost he would not be expecting the timing belt to have deteriorated like this and for it to require a new engine at this stage. In fact it would be rather alarming (as Mr R says it was). I say this whether you consider the mileage Mr R had covered at the time of fault discovery that of when he first reported the issues to the dealer in or around April 2022 (and the total mileage of the car being 35,000 miles), or at the later point of the diagnostic from July 2022 (at this point the car had covered around 38,000 miles).

I have also considered that Mr R continued to drive the car with the EML illuminated which seems likely to have exacerbated damage to the engine by any underlying and unremedied fault – but considering what Dealer A initially told him about the reason for the light – I don't think he can fairly be blamed for that.

It then appears Mr R took the car in for further work by Dealer A in August 2022 based on the original diagnostic. However, it appears that Dealer A did not replace the engine as initially recommended by Dealer B. That wasn't clear to Mr R at the time – but it appears that Dealer A stripped and rebuilt the engine in relation to diagnostic codes indicating '*knock sensor*' faults. Unlike Dealer B it says it found the timing belt was OK so didn't replace it but it '*removed carbon build up on valves*' and cleared the faults. It then returned the car to Mr R.

For clarity – whether the issues were timing belt related or otherwise, it doesn't alter my view on whether the car was of satisfactory quality at the point of supply. It is clear to me that either diagnosis presents significant engine related problems. Stripping down an engine to remove carbon deposits and then rebuilding does not seem to be a minor fault, or one that is fairly explained as reasonably expected wear and tear on a car of this age and mileage. I have not seen persuasive evidence from NF that persuades me otherwise.

So in summary, I think the evidence points to the car not being of satisfactory quality at the point of supply – and entitled Mr R to a remedy. A repair (like that carried out in August 2022) is not an unreasonable initial remedy when taken with the provisions of the CRA. However, Mr R has said that the car has continued to exhibit engine related problems – and the EML light continued to illuminate.

I can see that Dealer A agreed to take a look at the ongoing issues with the re-appearing EML light in May 2023 and found a range of errors including '*knock sensor*' issues. Which appear, on face value to relate to the issues found back in August 2022. To address this Dealer A appears to have replaced some spark plugs and said that the car was then OK. However, Mr R does not agree with this – he has maintained that the EML light has come on again and he has lost faith in the car (he said the engine has now started to make rattling noises) – to the point that he has ceased driving it now.

Mr R's testimony is credible here. And while he had covered in excess of 12,000 miles when he had the most recent EML investigation by Dealer A, it also needs to be borne in mind that he had been suffering with EML related issues very shortly after the supply of the car – just a few months after. And those issues resulted in significant repair work.

The key question for me now is not whether the car was of satisfactory quality when supplied (I have already concluded it wasn't) - but whether the repairs carried out in August 2022 sufficiently remedied the initial breach of contract. And here I am not convinced they did. I say this because:

- There is clear evidence Mr R's car continued to suffer from EML illumination since the repair – and it isn't something you would expect to occur on a car of this age and mileage with any regularity.
- The most recent diagnosis by Dealer A appears to mention similar issues to those that were occurring back in August 2022 that were meant to be remedied at the time.
- It isn't clear if similar carbon build-up to that discovered in August 2022 was investigated and ruled out in May 2023.
- There are still question marks over the initial conflicting diagnosis given by Dealer A and Dealer B – I still think it is possible that there were problems with the timing belt breaking up and causing problems downstream – and I don't think this has been conclusively ruled out by NF. There are questions as to why the engine was not replaced when a main dealer had apparently recommended it. I presume it would not have recommended this lightly. I am also aware that this car is subject to a recall – I am not sure what it is for but there are suggestions online that there are some issues with the timing belt breaking up prematurely with this model.

- There are some overall questions about the initial apparent misdiagnosis of the EML issues as being related to a software update – resulting in possible wider damage caused to the engine which Mr R would not be fairly responsible for here in any event.

All things considered, I am not persuaded that the repairs carried out in August 2022 have sufficiently addressed the concerns with the overall durability and quality of the engine in the car which came to light from April 2022 onwards. And I don't consider that Mr R can fairly be held liable for current issues with the performance of the engine or is acting unreasonably in wanting to reject it now.

Considering the previous failed (on balance) attempts at repair, and the further inconvenience any further repairs would likely cause I think Mr R can fairly exercise his final right to reject the car under the CRA. I now turn to fair redress in the circumstances.

NF should now collect the car at no further cost to Mr R and ensure his credit file has no adverse footprint as a result. It should also return to him any advance payment (this appears to be just £1 here). From what I can tell from the evidence I have Mr R has not paid out for any repairs – so there is nothing due back to him in that respect.

Mr R has been using the car so he should pay for that use. However, I note that Mr R has said he stopped using the car in January 2024. Mr R's testimony is credible and I note that the car doesn't have an MOT so it appears unlikely he is using it. Therefore, he should get refunded all his rental payments from January 2024 to the point of settlement.

Mr R has also had impaired use of the car due to the ongoing issues – and it appears it has been in and out the garage a few times for work. It isn't clear exactly how long Mr R was without the car – but our investigator has suggested NF refund him the equivalent of one month rental (£289.46) to reflect the problems prior to him ceasing use of it completely. Deciding this sort of thing is not a science but from what I can see this seems fair – and I note that Mr R agrees. For clarity - the issues with the car started in April 2022 – so it appears fair to treat the refund as his April 2022 payment for the purposes of the interest award on this amount.

I also can see that the issue has caused Mr R distress and inconvenience. I am sorry to hear about the impact it has had on him (including on his mental health). Mr R has clearly been distressed at driving a car he felt was unsafe – and has wanted a resolution to this issue sooner than NF provided as he has said he has been paying almost £300 a month for a car he has not been able to drive. I have thought about the impact on Mr R – and also note he has agreed with our investigator's recommendation of £200 to reflect this. In the circumstances, I also consider £200 is fair.

Mr R has mentioned to this service about taking the car off road and putting it in storage. He mentioned paying for storage but has not provided persuasive evidence of these costs so I will not be awarding these here.

Putting things right

NF should put things right as set out below.

My final decision

I uphold this complaint and direct N.I.I.B. Group Limited trading as Northridge Finance to:

- Take back the car at no cost to Mr R and cancel the finance agreement – ensuring

there is no adverse footprint on Mr R's credit file as a result.

- refund Mr R any advance payment he made;
- refund Mr R all rental payments he has made from January 2024 to the point of settlement;
- also pay Mr R the equivalent of one month additional rental to reflect the prior impaired/lost use of the car as a result of the inherent quality issues; and
- pay Mr R 8% simple yearly interest on all refunds calculated from the date of payment to the date of settlement;
- pay Mr R £200 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 15 October 2024.

Mark Lancod
Ombudsman