

The complaint

Mr B has complained that a car he acquired using a hire-purchase agreement with Alan John Charles Robinson, trading as NTK Finance ("NTK") was misrepresented to him, in that it had previously sustained a higher level of damage than he'd been led to believe. Mr B also complained that the cost of the car didn't reflect the earlier damage.

What happened

Mr B acquired a used Citroen in May 2023, using a hire purchase agreement with NTK. The agreement shows that the car cost £10,300 (although in Mr B's complaint to NTK he said he'd paid more), of which Mr B borrowed £10,000 over a term of 48 months. The monthly repayment was £291.66. The car was less than a year old at the point of supply, and the mileage was 1,823.

Mr B said that when he acquired the car, he was told that it was a 'Category D' car due to minor door damage. He went on to say that the sale was very quick, and that this was stated verbally rather than in writing, and was not explained. He further said he had not been given a sales invoice.

Mr B decided to trade in the car in February 2024, and he told us that he was originally offered £9,500 for the car. However, an HPI check listed the car as a Category S insurance write-off, indicating that more severe damage had occurred. Following this, the trade-in value was reduced to £4,500. Mr B feels that the original price of the car was too high and did not reflect the Category S status, and that the car was misrepresented to him. He also said that the car insurance he had held was invalid as the insurer would not have been aware of the correct status of the car. Additionally, Mr B is unhappy that, after trading in the car at a lower value, he had to borrow more on his new car and, as a consequence, has much higher monthly payments to meet. Mr B believes that he is some £5,000 out of pocket.

Mr B complained about all this to NTK in February 2024. NTK said it didn't uphold the complaint.

Mr B was unhappy with this, so he brought his complaint to this service. Our investigator looked into the complaint but didn't think it should be upheld. Mr B disagreed and asked for the complaint to be reviewed by an ombudsman.

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.

I've decided not to uphold Mr B's complaint. I'll explain why.

Mr B sent in his copy of the finance agreement along with the vehicle history check carried out in February 2024, showing the Category S status. NTK sent in a copy of the sales invoice, along with copies of the hire-purchase agreement, the original advert for the car, adverts for other cars (previously damaged and undamaged) for comparison, and

information about the difference in value caused by an insurance write off. NTK also provided a statement from the salesperson at the dealership which supplied the car.

Mr B acquired his car under a regulated consumer credit agreement and therefore this service is able to look into complaints about it. I have also taken into account s.56 of the Consumer Credit Act (1974), which explains that finance providers are liable for what they say and for what is said by a credit broker or a supplier before the consumer enters into the credit agreement.

If Mr B was given a false statement of fact or law, and if that false statement was a significant reason why he entered into the agreement, I may think the agreement – or the car – had been misrepresented to him. There may also be a misrepresentation by omission – that is, a failure to disclose something material to Mr B.

The key issues here are the description of the car in relation to the category of insurance write-off, and the impact on the price of the car.

I looked at the RAC website as a source of information about the categories of insurance write-offs. It describes an insurance write-off as *“industry jargon for a car that’s either sustained so much damage it’s unsafe to go back on the road, or it is still safe to drive but is beyond economical repair.”* It lists four categories of write-off – A, B, S and N, and states that *“Cat S means the vehicle has suffered structural damage. This could include a bent or twisted chassis, or a crumple zone that has collapsed in a crash.”* The vehicle would need professional repair before going back on the road.

The RAC website also notes that *“Cat D was replaced with Cat N in October 2017 and the two are broadly similar. Like Cat N, a Cat D or Category D marker is assigned to a vehicle that has suffered light or cosmetic damage.”* The information on the website also notes that some cars may still hold a Cat D classification.

Mr B’s comments have not been entirely consistent, in that he has said both that he was told that the car was a Category D, but also that he wasn’t told that the car was an insurance write off. I don’t doubt that Mr B has provided his best recollection of events, but I am conscious that recollections can fade with time.

Set against this, the sales invoice provided by NTK – albeit not signed by Mr B - states that *“This car is showing as a Cat S on HPI”*. The sales advertisement also states the car is Cat S, and the statement from the salesperson at the dealership says that Mr B was informed of the Cat S status. Mr B was provided with copies of these by our investigator, and has said that he didn’t see the sales invoice or advertisement, and nor was the Category S status noted on his finance agreement.

I accept that the sales invoice was not signed by Mr B, but nonetheless both it and the advertisement for the car state it to be a Cat S, so the documentary evidence doesn’t suggest that the status was being concealed in any way, and I do find that persuasive.

On balance, and having carefully considered the evidence and information both parties have provided, I don’t think I can fairly say that it is more likely than not that the car was misrepresented to Mr B in relation to its insurance write-off status, which is what I would have to be able to do to uphold the complaint on this point – I simply don’t have sufficient evidence that that was the case.

Turning to the price of the car at the point of supply, the hire purchase agreement showed a price of £10,300, although I note that Mr B thought the cost had been greater. The sales

advertisement for the car showed a price of £10,991, so it seems there was some negotiation on cost.

Mr B entered into the agreement with the cost clearly stated and the knowledge that there had been some previous damage. As our investigator noted in her view, the dealership and finance provider cannot have control over depreciation, or the future sale or trade-in value, as there are numerous factors that can affect such matters. Our investigator also looked at the Glass's valuation guide, which is industry recognised, and which confirmed that the car was valued at £13,390 at the point of supply and £11,250 in March 2024 (before accounting for any effect of the Category S status). Research online suggests that the reduction in value on a Category S car can generally be between 20% and 40%. I have reviewed and agree with these points. I have also looked at the sample advertisements provided by NTK, which illustrated the cost of some similar vehicles with and without a Category S marker.

Taking all these factors into account, I'm not persuaded that the price of the car was significantly higher than would otherwise be expected.

I appreciate that Mr B is very unhappy about the situation. However, as I have explained above, I don't have sufficient evidence to conclude that the car was misrepresented to Mr B, or that NTK has done anything wrong. Therefore I have decided that I cannot fairly uphold Mr B's complaint.

My final decision

For the reasons given above, I have decided not to uphold Mr B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 13 May 2025.

Jan Ferrari
Ombudsman