

The complaint

Ms D complains about a commercial printer supplied via hire agreement by BNP Paribas Leasing Solutions Limited ('BNP').

What happened

The parties are familiar with the background details of this complaint – so I will briefly summarise them here. It reflects my role resolving disputes with minimum formality.

Ms D took out a hire agreement with BNP for a commercial printer for her business in June 2023. However, she is unhappy with the quality of the printer and says it frequently jams which spoils her print outs. Ms D says this has had an impact on her small business. She wants to return the printer and get compensation.

Ms D complained to BNP but it did not uphold her complaint. The matter was escalated to this service.

Our investigator was not persuaded the printer was not of satisfactory quality so did not uphold the complaint.

Ms D has asked for an ombudsman to take another look at the matter for final decision. I issued a provisional decision on this case which said:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

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.

I note here Ms D has indicated she was mis-led about the condition of the goods when taking out the hire agreement. Although the hire agreement has a box ticked titled 'not new' Ms D has indicated she thought the goods were brand new and then found out they were second-hand. I don't see where Ms D made a mis-sale complaint to BNP initially. The complaint referred to this service appeared to be about the quality of the goods. Therefore, I am only looking at the quality of the goods here – and Ms D will have to make a separate complaint about the way the finance was sold if she considers things were mis-represented.

I also note there were initial question marks for me over whether Ms D was an eligible complainant. However, after Ms D provided further information I am satisfied that she took out the hire agreement in her capacity as a sole trader and is eligible to complain on that basis.

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

(and despite it being mentioned during the investigation) Section 75 of the Consumer Credit Act 1974 does not apply here, nor is it necessary to mean BNP is responsible for the quality of the goods in any event.

I note the administration and servicing of the goods has been carried out by a third party. And that BNP has deferred much of its response on this case to said third party (which I will refer to as 'A' where required). However, for clarity, references to submissions by BNP will be taken to include those submissions made by A on its behalf.

As the goods are being supplied for business purposes The Consumer Rights Act 2015 does not apply. However, I consider there to be other relevant legislation which implies a term into the contract that goods supplied are of 'satisfactory quality'.

There is an indication that BNP has contracted out of the implied term as to 'satisfactory quality' (from looking at the wording of its hire agreement). It is debatable if it is able to do this in the particular circumstances here. However, as I am not intending to uphold this case in any event I am not intending to dwell on this particular point.

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.

I consider it relevant to the circumstances in assessing the quality of the goods that:

- these were not supplied new - the printer was in fact a refurbished 7 year old unit, meaning it was less expensive to hire (A confirmed this in an email chain) and the reasonable expectation is that it would have already suffered notable wear and tear and not function as efficiently as a brand new or newer unit;*
- this is a commercial item rather than a consumer unit and would be subject to significant ongoing (and prior) wear;*
- paper jams or error codes in goods of this nature are not unusual and therefore are not themselves conclusive in showing goods are of unsatisfactory quality; and*
- a commercial unit like this would appear to have reasonable expectations around regular servicing, support and maintenance (reinforced by the fact Ms D appears to have had to pay a 'maintenance charge' along with the other charges for the hire of the unit).*

Of particular note here is also that BNP has indicated Ms D has used the unit heavily since it was installed. It says that the start and finish readings (I assume 'B' is for black and white and 'C' is for colour) from 16/6/23 to 17/12/24 are as follows:

Start

B - 116,319

C - 73,366

Finish

B - 179,641

C - 75,276

I also note that a service report from early October 2023 (around 4 months into hire) shows that the reading for black prints is 129,435 and for colour is 73,742. Showing that only 4 months into the hire period Ms D had made almost 14,000 prints.

This indicates Ms D has made substantial monthly use of the unit over the course of around a year and a half. Which should reasonably be factored in any assessment of satisfactory quality.

I note BNP has provided information that shows since the unit was installed there have been several support requests logged by Ms D. These appear to largely relate to error codes and paper jams. Ms D appears to log issues with the machine on average around 3-4 times a month. However, it appears this does not always result in a finding of a problem with the machine. Some issues are resolved over the telephone and when an onsite visit becomes necessary there are several logs showing no faults were found (jams were simply cleared without evidence of repair or there were times the notes suggest that C was using poor quality/damp paper which was contributing to jams).

However, I do note there are some visits where jams were removed and repairs/maintenance did appear to take place for example:

'from tray 1 replace rollers clean clutches'

'clean rollers and sensors. Check machine, replace cushion for actuator...'

'stripped and cleaned all DF rollers & found spring off exit actuator'

I also note that when Ms D was having issues at an early stage it resulted in the paper finisher/document feeder being replaced. These repairs indicate there were potentially faults with these components – but they might have been cautionary replacements (at least until it transpired that there might be issues with Ms D's use/storage of the paper). It isn't clear to me based on the information I have.

However, even if I accept some repairs were required, in the circumstances, it isn't clear to me if these were anything more than reasonably expected wear and tear/general maintenance in an older unit that experiences frequent use.

I empathise with the frustration Ms D has shown with the unit and I note she has sent in many photos showing up crumpled paper from jams. As I have indicated, paper jams in themselves are not unusual in goods like these. And while Ms D has pointed to the number of support requests made, as a non-expert (and without an independent expert report to show otherwise) I am not persuaded the evidence available shows that the maintenance required on the machine is unusual in the industry, when factoring in the other elements including the age of the unit and the level of use by Ms D's business.*

To add further difficulty in concluding there is a breach of contract here I note that there appear to be indications by engineers that Ms D's particular use (in respect of type/storage of paper) has impacted the functionality of the unit.

And while I know Ms D has complained of highly frequent paper jams – BNP has said that on inspection of 'jam counters' these were shown to be 'minimal'. I don't know what it means by 'minimal' however, I also refer back to what BNP has shown of Ms D's use of the unit since the hire period started – which appears to be significant, and presumably would have a notable impact on wear and tear of parts and any reasonable expectation around the frequency of issues such as error codes and paper jams, and any repairs/servicing required.

Once again, I do recognise Ms D's frustration and note she has pointed out she is a small business and said this has impacted her day-to-day work substantially. I know Ms D feels like the situation is unfair. However, I am resolving disputes informally, and as a non-expert. Based on the information I have, I am unable to fairly conclude BNP acted unfairly in not allowing her to reject the goods and/or receive compensation here.

Ms D does not have to accept my opinion and may consider taking further action, such as court proceedings, based on appropriate legal advice.

**a typographical error in the original provisional decision has been corrected here for clarity.*

BNP accepted my findings. Ms D did not respond by the deadline set.

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.

Neither party has given me cause to change my provisional findings – which I still consider fair for the reasons already given (above). These findings now form my final decision.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms D to accept or reject my decision before 5 March 2025.

Mark Lancod
Ombudsman