

## **The complaint**

Mr H complains that Nationwide Building Society hasn't refunded a payment he made.

## **What happened**

In April 2024, Mr H bought a used car. The cash price of the car was £9,700 and he paid £9,601 of that using his Nationwide credit card.

In August 2024, Mr H approached Nationwide for help in obtaining a refund. He said that the car had been misrepresented by the dealership that sold it and he had been unable to get a satisfactory resolution to his complaint with them. In summary, Mr H said that he had been assured by the dealership prior to purchasing the car that it had a full service history and that the gearbox had been serviced at the correct intervals.

Mr H said that he paid a premium for this car because of the full service history and the fact it came with a two year warranty. He said the warranty would be unlikely to pay out on any claim because of the lack of service history. In addition, he said there were issues with a chip in the windscreen, with the paintwork and that a service and MOT had not been carried out prior to his purchase of the car.

Nationwide considered Mr H's claim for a refund under section 75 of the Consumer Credit Act 1974 ("section 75"). However, it said there was insufficient evidence of a breach of contract or misrepresentation by the dealership for which Nationwide could be held jointly liable.

Our investigator didn't recommend the complaint be upheld. He wasn't persuaded there was sufficient evidence to demonstrate a breach of contract or misrepresentation.

Mr H didn't agree, so the complaint has been passed to me for a 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.

The general effect of Section 75 is that if Mr H has a claim for breach of contract or misrepresentation against the car dealership, he can bring a like claim against Nationwide as the provider of credit for that purchase. But only if certain conditions are met. For completeness, I'm satisfied those conditions are satisfied here. So, I've thought about whether Mr H has done enough to show he has a claim for a breach of contract or misrepresentation and whether Nationwide dealt with his claim and complaint fairly. In doing so, I've taken into account relevant law, including the Consumer Rights Act 2015 ("CRA").

Mr H says there was a breach of contract by the dealership and/or the car was misrepresented because he was told it would have a full service history, was told the gearbox had been serviced and he discovered the promised two year warranty was unlikely to be valid. He says the information about the service history, including the gearbox service,

was confirmed to him verbally by the dealership prior to the sale being agreed.

The CRA sets out that any description of the goods made by the dealership, including those made verbally, form part of the contract for sale. There is no record of the conversation Mr H said he had with the dealership. However, based on what Mr H has said throughout his complaint and his actions following the sale (including available evidence of correspondence he sent to the dealership), I'm persuaded, on balance, that these representations were likely made to Mr H by the dealership and that they therefore formed part of the contract.

I've reviewed copies of correspondence between Mr H and the dealership. From these it's clear Mr H received a copy of the online service record at some point after the sale. I've also seen a copy of this online record and it has a gap between 2018 and 2024. However, I've seen that Mr H also confirmed to the dealership that he had received the service history book and that it was stamped to indicate services were completed in the intervening years. It appears some paperwork for those services was also available in the service book as Mr H referenced them when complaining to the dealership. So, it seems the car does have a complete service history albeit some are recorded online and others aren't.

Mr H says that it is not a full service history because there is insufficient evidence to demonstrate that each service was completed to the manufacturer's requirements. However, from what I can establish there is no universally accepted definition for a 'full service history' that includes a requirement for services to be completed to manufacturer standards. Indeed, some of the third parties Mr H has referenced as sources for his definition do not explicitly support what he says.

As an example, one defines it as *"a full service history means that a vehicle has been maintained in line with a manufacturer's service schedule and comes with all the relevant documents as proof."* Another says: *"A full car service history is a record of all the maintenance and repair work that has been done on a car over its lifetime."* Neither of these definitions support what Mr H says, in that a full service history means the services need to have been completed in line with the manufacturer's requirements – only that the services should be at the manufacturer approved intervals.

It seems to me that it wouldn't be incorrect or misleading to describe a car as having a full service history if a service had been completed every year, at the prescribed intervals. Given that Mr H has confirmed the service history was stamped for the years missing from the online record and paperwork was present for services, I can't reasonably conclude that the service history was incorrectly described to him.

Mr H also says that the gearbox service was not completed and he was assured it had been. But I've not seen anything to support what Mr H says, such as full copies of each service or commentary from an independent expert that might have inspected the gear box. I only have Mr H's assurances that this wasn't done. Yet clearly services were completed on the car at the prescribed intervals (as the service book was stamped) so it's possible the gearbox was serviced at one of these intervals. I accept Mr H was likely told by the dealership prior to purchase that the gearbox had been serviced. However, I don't have persuasive enough evidence for me to reasonably conclude that assertion was false and that therefore the car is not as described.

I note that Mr H says the service history was a key concern for him, including that a MOT and service had been completed on the car prior to purchase. However, his actions don't support that these things were so material to his purchasing decision that he would not have agreed to the sale otherwise.

I say this because he completed the purchase and drove the car away, by his own

admission, without any paperwork pertaining to the service history or evidence that a recent service or MOT was completed. He says he paid a premium for the car because he was promised these things and would not have bought it otherwise. I find it difficult to accept that Mr H wouldn't still have bought the car anyway, when he did drive away with the car without having sight of these things that he says were so crucially important to him.

This means that even if I accepted that the dealership had provided a false description of the car prior to the sale, I've not seen anything to sufficiently persuade me that those statements would have made any material difference to Mr H's decision to buy the car. A misrepresentation is a false statement of fact that induced the other party to enter into a contract they otherwise wouldn't have. For the reasons I've given, I'm not persuaded there was a misrepresentation for which Nationwide needed to put things right.

In relation to the two year warranty, I've seen that the warranty is active for a period of two years from the sale. While Mr H has raised concerns about the warranty, his concerns are entirely hypothetical as he has not made a claim under the warranty. I've not seen anything to persuade me that the warranty wouldn't have paid out for any claim Mr H might have made. I can't therefore fairly say there has been a breach of contract or misrepresentation in relation to the warranty.

Lastly, Mr H has referred to other cosmetic and quality issues with the car which I understand aren't central to his complaint. However, for completeness, I'm not persuaded these things would have made the car of unsatisfactory quality under the CRA and therefore wouldn't amount to a breach of contract for which Nationwide might be liable under section 75. This is because I think these issues ought to have either been readily apparent on any reasonable inspection of the goods prior to purchase, and/or not unexpected of a car of this age and mileage.

Overall, I'm not satisfied there is sufficient persuasive evidence to demonstrate there was a breach of contract or misrepresentation for which Nationwide should now put things right. I realise this will be disappointing for Mr H, but I don't think Nationwide acted unfairly or unreasonably when it declined his section 75 claim and complaint.

### **My final decision**

For the reasons given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 10 April 2025.

Tero Hiltunen  
**Ombudsman**