

## **The complaint**

Mr C complains about the quality of a new motorcycle he acquired through a hire purchase agreement (HPA), financed by Billing Finance Limited (Billing).

## **What happened**

In May 2023, Mr C acquired a new motorcycle through a HPA, financed by Billing. The cash price was around £3,050.

Around two days after taking delivery of the motorcycle, Mr C says he noticed a dent in the fuel tank. He said he reported the damage to the dealership, who agreed to replace the tank under warranty.

In October 2023, Mr C complained to Billing that in addition to the dented fuel tank, the motorcycle's engine was cutting out and the speedometer was reading incorrectly. To resolve his complaint, Mr C wanted a replacement motorcycle.

Billing contacted the dealership who told them a replacement fuel tank was on back order but would be fitted without charge to Mr C once received. Regarding the other issues, the dealership said Mr C had serviced the motorcycle himself, which had voided the motorcycle's warranty. Billing also say Mr C confirmed to them he'd not maintained the motorcycle's required servicing schedule.

As part of their investigation, Billing instructed independent engineers to inspect the motorcycle. The inspection was carried out in November 2023 and the current mileage was noted on the report as being 3,782. In summary, the engineer's report concluded only the dented fuel tank could be confirmed as a fault during the inspection.

Billing issued a final response to Mr C in November 2023. They said the fuel tank issue was to be resolved by the dealership, however the dealership was unwilling to assist with any further issues due to the voided warranty. Billing also said, as the engineers report failed to identify any faults other than the dented fuel tank, there was nothing further for them to investigate, so they didn't uphold his complaint.

In February 2024, Mr C complained to Billing that he was experiencing further issues with the motorcycle. He explained the engine was misfiring and a third-party garage he'd taken the motorcycle to, had confirmed the High-Tension (HT) lead was defective, causing large sparks and the ignition coil to arc. Mr C confirmed the garage had replaced the HT lead and had fitted a rubber boot over the joint to prevent the issue from reoccurring.

Billing issued a final response to Mr C's additional complaint in February 2024, but again didn't think it should be upheld. They referred to the independent inspection previously carried out and explained, having been provided further commentary, the engineers had confirmed the motorcycle wouldn't have been able to complete the mileage it had done, should the issues Mr C had raised, have been present at the point of supply.

Mr C asked the Financial Ombudsman Service to investigate his complaint, saying he'd

started experiencing problems with the motorcycle after three days of having it. He said the motorcycle was untrustworthy and not fit for purpose, so wanted Billing to repair all the issues or replace it.

One of our Investigators looked into things but didn't uphold Mr C's complaint, saying Mr C had completed his own service and carried out unauthorised repairs on the motorcycle, which had voided the warranty.

Our Investigator said she wasn't persuaded the motorcycle was of unsatisfactory quality, or that the issues complained about were present at the point of it being supplied, so it wouldn't be fair for her to ask Billing to do anything to put things right.

Mr C remained unhappy and because an agreement couldn't be reached, his complaint has come to me to decide.

I sent both Mr C and Billing my provisional decision on 6 March 2025. I explained I'd reached a different outcome to that of our Investigator. In my provisional decision I said:

*Where evidence is incomplete or inconclusive (as some of it is here), I've reached my decision on the balance of probabilities, deciding what I consider most likely to have happened in light of the evidence that is available and the circumstances of this complaint as a whole.*

*Having done so, while I know this will come as a disappointment to Mr C, I've reached a similar outcome to that of our Investigator, but my reasoning is not quite the same. Because of that, this decision will be provisional, and I'll give both sides a chance to comment before I make my final decision.*

*First, as this complaint concerns the quality of goods, in this case a motorcycle, supplied through a regulated HPA Mr C entered into, I'm satisfied this is a complaint we can consider.*

*In considering what's fair and reasonable, I need to have regard to the relevant law and regulations. The Consumer Rights Act 2015 (CRA) is relevant to this complaint. It says that under a contract to supply goods, there is a statutory right for the goods to be of satisfactory quality.*

*To be considered satisfactory, the goods would need to meet the standard that a reasonable person would consider satisfactory – taking into account any description of the goods, the price and all other relevant factors.*

*Here, Mr C acquired a new motorcycle at a cost of around £3,050, so I'm satisfied a reasonable person would expect the level of quality to be of a high standard, the motorcycle to be free from defects and functioning to the specification set out at the time of entering into the agreement. I need to consider if Mr C's motorcycle was of satisfactory quality or not.*

*Mr C first complained to Billing in October 2023 that the motorcycle would sporadically cut out and its top speed was reading incorrectly on the speedometer. He also said there was a dent in the motorcycle's fuel tank, an issue he'd previously told the supplying dealer about and which they'd agreed to repair under warranty.*

*I first want to address the damage to the fuel tank on Mr C's motorcycle. I'll then go on to address the other issues experienced by Mr C.*

#### *Damaged fuel tank*

*Our Investigator said in Billing's final response it stated they'd contacted the supplying dealer who'd said they were no longer willing to assist with the repair, due to Mr C having completed his own service to the motorcycle. But I don't agree this is correct – instead I think there has been some confusion here.*

*Billing said the dented fuel tank was to be resolved by the supplying garage, however due to the voided warranty they were not willing to assist with any other claims. So, I'm satisfied the supplying dealer accepted there was damage to the fuel tank at the point of supply and promptly agreed to put things right after Mr C brought it to their attention.*

*I'm satisfied a reasonable person would not expect the fuel tank to be dent on a brand new motorcycle. It follows I find this made the motorcycle of unsatisfactory quality.*

*I'm satisfied Mr C accepted the dealership's offer of repair, who then placed an order for the required part. While I acknowledge this specific repair to Mr C's motorcycle has not yet been completed, the supplying garage said the initial delay was due to the part being on backorder with the manufacturer.*

*Repair is one of the remedies available to Mr C under the CRA. I have considered, given the length of time it's taken to resolve this issue, whether this is still a fair and reasonable way to put things right. But, after taking delivery of the replacement part, the supplying garage said workshop space was booked out on two occasions for them to complete the repair, but both times Mr C didn't attend the appointment.*

*Given this, I don't think Billings needs to take any further action. The supplying garage have confirmed they remain willing to complete the repair without cost to Mr C. He should contact them directly to arrange this.*

#### Other issues

*I'll now address the other issues Mr C has experienced with his motorcycle.*

#### November 2023

*Mr C initially said the motorcycle had issues with cutting out and the speedometer not working correctly.*

*At the time Mr C's motorcycle was inspected by independent engineers in November 2023, it was around five months old and had covered 3,782 miles. The mileage at the time Mr C said there was a failure was recorded as being 3,500. The engineer's report said:*

*"In our opinion, the vehicle started readily and ran smoothly with no evident warning lamps, engine management faults or abnormal running despite having the vehicle running for a prolonged period.*

*There is a dent in the fuel tank, which has already been acknowledged as a defect by the supplying agent, although when this occurred is unknown.*

*In regard to the speedo, we cannot confirm that this is defective. The maximum speed displayed is showing 130 Mph although we cannot confirm if this is correct without the manufacturer information.*

*Only the dent in the fuel tank could be confirmed as being a defect during our inspection which requires attention and is reportedly being rectified by the main agent."*

*It went on to say:*

*“We can conclude that only the dent in the tank could be confirmed as a fault during our inspection.”*

*And answered the following questions as follows:*

*“Does the vehicle have a current default? – Yes*

*Would the defect have been present at sale? – No*

*Would the defect have been developing at sale? – No*

*Was the vehicle of satisfactory quality at sale? – Yes”*

*Considering the report, along with what Mr C said, I haven’t seen enough to persuade me the motorcycle had faults with either cutting out or the speedometer at this time.*

#### *February 2024*

*In February 2024, Mr C complained to Billing about further issues he’d experienced with the motorcycle that had required him to have repairs undertaken. The third-party garage who undertook the repairs reported the motorcycle had 3,920 miles on the odometer at the time and said on inspection:*

*“after bike was running for a short moment in damp conditions it would start to misfire and cut out, every time it misfired there was a loud ‘arc’ cracking sound.”*

*The garage went on to say:*

*“After investigation it was found that a defective HT lead into the ignition coil which was also missing its insulation where lead joins the coil was arcing large spark between the HT lead and the frame, petrol tank and wiring connector.”*

*The garage replaced the HT lead and fitted a rubber boot over the joint to prevent the issue happening again.*

*So, it seems quite clear to me that the motorcycle had developed a fault with the HT lead at this time. I now need to consider when I think it’s likely this occurred.*

*Billing referred back to the engineers who’d previously examined the motorcycle to ask for additional guidance and ultimately, if the additional information Mr C had provided changed the stance taken in their original report.*

*In summary, they said:*

*“It would be highly unlikely that the vehicle would cover 138 (additional miles) without breaking down if the HT lead was sparking to ground. This engine only has the one spark plug, and therefore, if the spark was grounding, the bike would be cutting out and breaking down constantly.”*

*In response to being asked if it was possible the fault would have been present at the point of sale, they said:*

*“We do not believe so.”*

And explained:

*“The vehicle had covered 3782 miles when we inspected the vehicle, and therefore the reported issue of a grounding HT lead could not have possibly been present at inception.”*

*“Furthermore, on our initial instruction, we were advised by yourselves that the operator had the spark plug changed. This involves the removal of the HT lead in order to remove the spark plug, and no issue was raised at that point. This is further evidence that there was no issue with the HT lead at the point of inception.”*

*As referenced above, after the initial inspection was carried out, and prior to the HT lead being replaced, Mr C had the spark plug changed. Mr C has provided an invoice for this work dated early January 2024.*

*To replace the spark plug, my understanding is that the garage would have needed to remove the HT lead. I think it's possible that the rubber boot was removed at this point, or during other work completed on the motorcycle, as opposed to it having not been present from the point of supply. I say this considering the issues Mr C experienced occurred soon after the work was completed and him having ridden the motorcycle for a considerable number of miles prior.*

*Having reviewed all of this, I haven't seen enough to persuade me the fault with the HT lead was present or developing at the point of supply.*

*I've also considered whether this means Mr C's motorcycle wasn't durable. But, given the fact the service schedule had not been met and there is a chance the fault may be due to work done by a third party, I haven't seen enough to persuade me this was likely the case.*

*The invoice from the third-party garage also says:*

*“Bike running rough, replaced spark plug (customer supplied), old spark plug was very black and 'sooted' to imply that the bike could be running rich.”*

*It goes on to say:*

*“Engine appears to be running rich.”*

*I've thought carefully about these comments. While it does suggest there were issues with the bike prior to the spark plug being replaced, there isn't anything specific to confirm what might be causing the engine to run rich. And I need to weigh up these comments alongside the apparent lack of maintenance carried out on the motorcycle prior to this point and against the fact the report failed to identify any mechanical faults with the motorcycle only two months prior.*

*Thinking about this, I'm not persuaded this is evidence of any fault present or developing at the point of supply, nor do I think this shows the motorcycle wasn't durable.*

*For the reasons I've already explained, on balance, I'm satisfied if there were mechanical issues either present or developing at the point of supply, the faults Mr C experienced around October 2023 would have materialised earlier, and he would've reported them much sooner.*

*So, in summary, aside from the cosmetic damage to the fuel tank which the supplying dealership remains prepared to fix, given that I'm persuaded apart from this issue that the motorcycle was of satisfactory quality when it was supplied to Mr C, I'm not minded to direct*

*Billing to take any further action to put things right.*

Neither Mr C, nor Billing provided a response to my provisional 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 neither party to this complaint has provided any further evidence or argument in response to my provisional decision, I see no reason to depart from provisional decision which I've set out above.

So, to summarise again for completeness, aside from the cosmetic damage to the fuel tank which the supplying dealership remains prepared to fix, given that I'm persuaded apart from this issue that the motorcycle was of satisfactory quality when it was supplied to Mr C, I'm not directing Billing to take any further action to put things right.

### **My final decision**

My decision is that I don't uphold Mr C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 18 April 2025.

Sean Pyke-Milne  
**Ombudsman**