

## The complaint

Mr M is unhappy that a car supplied to him under a hire purchase agreement with N.I.I.B. Group Limited trading as Northridge Finance was of an unsatisfactory quality.

Mr M has been represented during the claim and complaint process by Miss C. For ease of reference, I will refer to any comments made, or any action taken, by either Mr M or Miss C as “Mr M” throughout the decision.

## What happened

In On 31 May 2023, Mr M was supplied with a used car through a hire purchase agreement with Northridge. Mr M says he paid an advance payment of £300, and the agreement was for 48 months; with 47 monthly payments of £772.86 and a final payment of £25,161. At the time of supply, the car was around two years old, and had done 39,336 miles.

On 3 August 2023, the car developed a fault and Mr M called his breakdown company. The mechanic who attended said there was a *“lambda sensor malfunction ... advised dealer to fix.”* The breakdown report shows the car had done 41,035 miles. Following this breakdown, a repair was attempted and, on 26 September 2023, Mr M complained to Northridge.

The car broke down again on 1 October 2023, at which point it had done 42,210 miles. The attending mechanic from the breakdown company noted there were issues with the Lambda sensor. A third breakdown happened on 9 November 2023, at 43,127 miles, due to an issue with the gear selection. The car was returned to the supplying dealership and it's my understanding the car remains unrepaired.

As Northridge didn't respond to Mr M's complaint, he brought the matter to the Financial Ombudsman Service for investigation.

Our investigator was satisfied there was a fault with the car, and that this had been evidenced by the breakdown reports. Given when the fault had first happened, the age and mileage of the car at supply, and the limited mileage Mr M had done since supply, the investigator thought the fault was likely present when the car was supplied to Mr M. And this made the car of an unsatisfactory quality. As such, the investigator said that Mr M should now be allowed to reject the car.

The investigator recommended that Northridge should end the agreement; collect the car; refund any deposit that had been paid; refund all payments made after 9 November 2023; refund 15% of the payments made up to 8 November 2023; and pay Mr M an additional £350 compensation for the distress and inconvenience he'd been caused.

Mr M accepted the investigator's view but said that the car wasn't currently at the supplying dealership – it's with a local garage instead. But he's being asked to move it, and it's currently undrivable. Mr M also said that Northridge had told him they'd been in contact with us about this matter, provided us with additional evidence, and said the dealership have the right to repair the car. However, we've received no contact from Northridge, despite having

chased them on multiple occasions. As such, this matter has been passed to me to make 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.

Having done so, I've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome. Where evidence has been incomplete or contradictory, I've reached my view on the balance of probabilities – what I think is most likely to have happened given the available evidence and wider circumstances.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Mr M was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we're able to investigate complaints about it.

The Consumer Rights Act 2015 ('CRA') says, amongst other things, that the car should've been of a satisfactory quality when supplied. And if it wasn't, as the supplier of goods, Northridge are responsible. What's satisfactory is determined by things such as what a reasonable person would consider satisfactory given the price, description, and other relevant circumstances. In a case like this, this would include things like the age and mileage at the time of sale, and the vehicle's history and its durability. Durability means that the components of the car must last a reasonable amount of time.

The CRA also implies that goods must conform to contract within the first six months. So, where a fault is identified within the first six months, it's assumed the fault was present when the car was supplied, unless Northridge can show otherwise. But, where a fault is identified after the first six months, the CRA implies that it's for Mr M to show it was present when the car was supplied.

So, if I thought the car was faulty when Mr M took possession of it, or that the car wasn't sufficiently durable, and this made the car not of a satisfactory quality, it'd be fair and reasonable to ask Northridge to put this right.

Based on the evidence I've seen from the breakdown reports, I'm satisfied there are faults with the car. The dates on these reports show the faults first occurred within six months of the car being supplied to Mr M. As I've said above, the CRA implies these faults were present when the car was supplied to Mr M, unless Northridge can show otherwise. And we've received no evidence from Northridge i.e., a report from an independent engineer, that shows the car either has no faults, or the faults developed after supply.

Given this, I'm satisfied the faults with the car were present or developing when the car was supplied to Mr M. As the faults also make the car undrivable, I'm also satisfied the car was of an unsatisfactory quality when it was supplied to Mr M. As such, Northridge should do something to put things right.

### **Putting things right**

Mr M has said the car was repaired after the initial breakdown in August 2023. However, based on his comments in reply to the investigator's view, it's now my understanding that any repair would've been done at a warranty approved garage, and not by the supplying

dealership. This is because the dealership isn't approved to repair cars under the warranty they sold Mr M.

Section 24(5) of the CRA says "*a consumer who has ... the right to reject may only exercise [this] and may only do so in one of these situations – (a) after one repair or replacement, the goods do not confirm to contract.*" This is known as the single chance of repair. And this applies to all issues with the goods, and to all repairs i.e., it's not a single chance of repair for the dealership AND a single chance of repair for Northridge – the first attempted repair is the single chance at repair. What's more, if a different fault arises after a previous repair, even if those faults aren't related, the single chance of repair has already happened – it's not a single chance of repair per fault.

I haven't seen any evidence of any repair done following the breakdown in August 2023. However, if such a repair took place then, given the situation with the warranty, it would be reasonable for me to conclude that this could be classed as the dealership's single chance at repair. And, given the car broke down twice after any such repair was done, then it would also be fair to class this as a failed repair. And, if the repair failed, then the CRA allows Mr M the right to reject the car.

But, as I've said, I haven't seen any evidence of any repair done. And Northridge have asked (via Mr M) for the right to repair the car. As such, I've also considered section 23 of the CRA, which says:

*If the consumer requires the trader to repair or replace the goods, the trader must –  
(a) do so within a reasonable time and without significant inconvenience to the consumer*

It's not disputed that the car has been at a garage since 9 November 2023. And since this date, and to be fair since Northridge were first advised of the issues with the car in September 2023, they've had the opportunity to have the car inspected and repaired if necessary. But they've chosen not to do so. As such, it's arguable that Northridge failed to comply with Section 23(2)(a) of the CRA. And, in these circumstances, Mr M should also be able to reject the car.

So, regardless of whether the car was repaired or not, for the reasons stated, Mr M should now be allowed to reject the car.

The car has been off the road and undrivable since 9 November 2023, and Mr M hasn't been supplied with a courtesy car. As such, he was paying for goods he was unable to use. As, for the reasons already stated, I'm satisfied the car was off the road due to it being of an unsatisfactory quality when it was supplied, and as Northridge have failed to keep Mr M mobile; I'm satisfied they should refund the payments since this date.

Mr M was able to use the car while it was in his possession, until 9 November 2023 when it became undrivable. Because of this, I think it's only fair he pays for this usage. However, given the issues with the car caused multiple breakdowns, I'm also satisfied that Mr M's usage and enjoyment of the car has been impaired. Because of this, I also think it's fair that Northridge refund some of the payments Mr M made. And I think 15% of the payments made up to 8 November 2023 fairly reflects the impaired use caused by the car not being of a satisfactory quality.

Finally, it's clear that Mr M has been inconvenienced by what's happened. So, I think Northridge should also compensate him for this. The investigator had recommended Northridge pay him £350, which is in line with what I would've directed had no

recommendation been made. So, I see no compelling reason not to adopt this as part of my final decision.

Therefore, Northridge should:

- end the agreement with nothing more to pay;
- collect the car at no cost to Mr M;
- remove any adverse entries relating to this agreement from Mr M's credit file;
- upon proof of payment, refund the deposit Mr M paid (if any part of this deposit is made up of funds paid through a dealer contribution, Northridge is entitled to retain that proportion of the deposit);
- refund 100% of all payments Mr M made on or after 9 November 2023;
- refund 15% of all payments Mr M made between the start of the agreement and 8 November 2023;
- apply 8% simple yearly interest on the refunds, calculated from the date Mr M made the payment to the date of the refund<sup>†</sup>; and
- pay Mr M an additional £350 to compensate him for the trouble and inconvenience caused by being supplied with a car that wasn't of a satisfactory quality.

<sup>†</sup>If HM Revenue & Customs requires Northridge to take off tax from this interest, Northridge must give Mr M a certificate showing how much tax they've taken off if he asks for one.

### **My final decision**

For the reasons explained, I uphold Mr M's complaint about N.I.I.B. Group Limited trading as Northridge Finance. And they are to follow my directions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 28 March 2024.

Andrew Burford  
**Ombudsman**