

The complaint

Mr S complains about the quality of a car he acquired under a Hire Purchase Agreement with N.I.I.B. Group Limited trading as Northridge Finance (Northridge Finance).

When I refer to what Mr S has said and what Northridge Finance have said, it should also be taken to include things said on their behalf.

What happened

In August 2022, Mr S entered into a Hire Purchase Agreement with Northridge Finance to acquire a used car. The car was first registered in March 2018. At the time of acquisition, the car had travelled approximately 19,910 miles. The total cash price of the car was approximately £28,000 when Mr S acquired it. Mr S made an advance payment of around £3,000. Under the agreement, there were 48 instalments of approximately £371, commencing one month after the date of the agreement, and one final payment of around £12,340 due 49 months after the date of the agreement (which includes the option to purchase fee).

Mr S said that, shortly after acquiring the car, he noticed that the floor mats supplied with the car were covering its pedals, but the dealership agreed to refund him the cost of replacement mats. Also, a few days before Mr S acquired the car it had some repair work done to the rear bumper. Mr S was not happy with aspects of this repair so in September 2022 the supplying dealership said that they would be happy to get that looked at for him, but that he would need to bring the car back to them.

On 11 November 2022, Mr S contacted the supplying dealership and said that he is happy to bring the car back to their shop. He asked if they would be able to arrange for the work to be done there and then, as he is two hours' drive away from the dealership. During this email he also said that the brake pad warning light has come on (Mr S said that this happened after six weeks, and 1,500 miles travelled). He also said that, due to a battery fault, the Stop/Start does not work, and the window switch is inoperative (Mr S said that the Stop/Start has not worked since he acquired the car). The supplying dealership responded to this email and said that they will call the next day to get Mr S's car booked in for the rear bumper and to get the brakes and Stop/Start looked at.

From the evidence on file, I can see that Mr S emailed back the supplying dealership on 28 February 2023. In this correspondence he said that following their email dated 17 Nov 2022, he had no further communication from them. In this correspondence he said that he would like them to investigate and rectify the brake pad warning light, inoperative window switch and the Stop/Start, rear paint defect, and the battery warning light. And that he would like them to investigate and rectify *"Rear tyres excessively worn at inner edge (2mm), Rear camber 4.5deg misalignment (will require adjustable joint) - Fault flagged 2500mi/10weeks"*. In this correspondence Mr S also said that the other option is for the supplying dealership *"to agree a buy-back of the vehicle with the above mentioned faults, at a 'fair wear and tear' price between Cap Clean and my purchase price, to consider the total mileage covered of 6,000mi."* At the end of that correspondence, he added that if these cannot be resolved, he would like to exercise his right to reject the car. Following this email, Mr S and the supplying

dealership had communication on the phone and arranged an appointment for Mr S to bring the car in for April 2023.

Mr S said that on 11 April 2023, when he arrived at the dealership at 11 AM, he was informed that the courtesy car had not arrived from the rental company. Mr S said that he was told he could wait until about 5 o'clock, which he did not think was reasonable. The supplying dealership said that the rental company that was supposed to provide the courtesy car were delayed, and the alternative courtesy car was not available until midday, but Mr S was unable to wait for an hour. So, they said that they offered to get the car into the workshop and diagnosed as a matter of priority, however this option was declined.

On 23 April 2023, Mr S contacted the dealership and informed them that he was involved in a car accident as his car lost control and the ESP (Electronic Stability Control) light came on. Mr S said that the car slid to the left on a wet lane and hit a wall, which caused damage to both nearside doors. Mr S said that upon inspecting the tyres, he noticed that they are completely bald showing cord and thread and Mr S said that this was a result of the reported suspension issues and tyre wear, which he said made the car unroadworthy and his insurance policy invalid.

On 26 April 2023, the supplying dealership wrote to Mr S and said that they will cover the rear brake warning light, the window switch being inoperative, Stop/Start being inoperative, and the rear bumper defect. In relation to the tyres and traction – they said they will diagnose these issues so they can establish whether these would be covered. In this correspondence they also said that the car had its MOT completed on 29 June 2022 with no advisories and as Mr S purchased the car in September 2022 with no additional miles on the clock, they said this would suggest that at the point of sale the tyres were within standard. So, the supplying dealership explained that it is Mr S's responsibility as the owner to change the tyres on the car when necessary. In this correspondence they provided options, among them offering that they can pick up his car and provide him with a courtesy car for the period of the diagnostic and repair.

Also on 16 June 2023, Northridge Finance issued a final response letter to Mr S which said that their investigation was taking longer than expected to conclude so it referred Mr S to the Financial Ombudsman Service (Service). Mr S referred his complaint to our Service on 26 June 2023. Mr S said he would like to reject the car, as he believes that it was not of satisfactory quality at the point of supply.

An investigator at this Service issued an opinion on this complaint. The investigator was not persuaded that the car was of an unsatisfactory quality at point of supply. So, the investigator did not think that Northridge Finance needed to do anything in relation to Mr S's complaint.

Mr S disagreed with the investigator. So, the complaint has been passed to me to decide.

While the case was with us, in November 2023 Northridge Finance told us that the supplying dealership carried out repairs to the car. They said they have done repairs to the rear brake pads, Stop/Start, the battery, and the rear bumper defect. They also fixed the window locking switch, as there was a fault with the child lock button on the window switch panel which needed replacing. But they said that the cost of the replacement of rear tyres and tracking on the car would be Mr S's responsibility.

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 am very aware I have summarised this complaint very briefly, in less detail than has been provided, and largely in my own words. No discourtesy is intended by this. If there is something I have not mentioned, I have not ignored it. I have not commented on every individual detail. But I have focussed on those that are central to me, reaching what I think is the right outcome. This reflects the informal nature of our Service as a free alternative to the courts.

Where evidence is unclear or in dispute, I reach my findings on the balance of probabilities – which is to say, what I consider most likely to have happened based on the evidence available and the surrounding circumstances.

In considering what is fair and reasonable, I need to take into account the relevant rules, guidance, good industry practice, the law and, where appropriate, what would be considered to have been good industry practice at the relevant time. Mr S acquired the car under a Hire Purchase Agreement, which is a regulated consumer credit agreement. Our Service can look at these sorts of agreements. Northridge Finance is the supplier of the goods under this type of agreement and is responsible for dealing with complaints about their quality.

The Consumer Rights Act 2015 (CRA) covers agreements such as the one Mr S entered into. Under this agreement, there is an implied term that the goods supplied will be of satisfactory quality. The CRA says that goods will be considered of satisfactory quality where they meet the standard that a reasonable person would consider satisfactory – taking into account the description of the goods, the price paid, and other relevant circumstances. I think in this case those relevant circumstances include, but are not limited to, the age and mileage of the car and the cash price. The CRA says the quality of the goods includes their general state and condition, as well as other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability.

In Mr S's case the car was used, the total cash price of the car was approximately £28,000. It had covered around 19,910 miles and was about four years old when he acquired it. So, it's reasonable to expect presence of some wear to it, as a result of its age, and I would have different expectations of it compared to a brand-new car. As with any car, there is an expectation that there will be ongoing maintenance and upkeep costs. There are parts that will naturally wear over time and it is reasonable to expect that these may need to be replaced. And in second-hand cars, it is more likely that parts will need to be replaced sooner or be worn faster than in brand-new cars. So Northridge Finance would not be responsible for anything that was due to normal wear and tear whilst in Mr S's possession. But given the age, mileage and price paid, I think it is fair to say that a reasonable person would not expect anything significant to be wrong shortly after it was acquired.

First, I considered if there was a fault with the car. I've considered Mr S's testimony, and from the evidence provided by both sides, I can see that it is not in dispute that there were issues with incorrect floor mats, brake pads, inoperative window switch, inoperative Stop/Start, battery issues, rear paint defect, excessively worn tyres, and issues with the geometry/alignment of wheels. Some of these have now been fixed, but the car still has some faults that have not been repaired by the supplying dealership or Northridge Finance. But just because there are or were faults found with the car, does not automatically mean that the car was not of satisfactory quality at the point of supply. So, I've gone on to consider if the car was of satisfactory quality when it was supplied to Mr S.

Incorrect floor mats

I know that the dealership agreed to pay for new floor mats for Mr S, but even if this issue was unresolved, I have not seen what type of floor mats the car was advertised with, so I have not seen enough evidence to say that most likely the car was not as described when Mr S acquired it.

Brake pads

I can see that when the car was booked in with the dealership, on 10 May 2023, the diagnostic found that the rear brake pads were down to 4mm, and that they were unable to get in to see the sensor at the time, but they said that they would recommend new pads and sensor. I also understand that since November 2023 the dealership has carried out repairs to the rear brake pads.

But even if the repair of the brakes were not carried out by the dealership, I could not say that most likely there was a fault present or developing at the point of supply with the brakes or their sensors, or that the car was unsafe due to issues with the brakes and their components. I say this because at the end of June 2022, shortly before Mr S acquired the car, it had an MOT done and it passed. There were no advisories noted at all on this MOT, and the car between this MOT and the acquisition had travelled approximately only 61 miles. So, had there been any issues with the brakes or their sensor, I think most likely this would have been flagged during the MOT. Also in November 2022, when Mr S mentioned that the brake's warning light had come on, he already had the car for around two to three months, and he travelled in it for around 1,500 miles. Brakes are a wear and tear item, so I think, most likely, these needed changing due to normal wear and tear process and not because there was an issue with them at the point of supply. And, as such, I think it is most likely these needed to be fixed because of normal wear and tear and parts coming to the end of their life cycle as the car had covered around 19,910 miles when supplied, so it is reasonable to expect there to be some wear to it because of this use.

Inoperative window switch

In November 2023, Northridge Finance told us that the supplying dealership fixed the window locking switch, as there was a fault with the child lock button on the window switch panel which needed replacing. But I have not seen enough evidence to say that most likely this fault was present at the point of supply. I say this because I cannot see that Mr S originally raised this issue with the supplying dealership earlier than when he did in November 2022. I think had this issue been present earlier, most likely Mr S would have raised it earlier than he did.

Inoperative Stop/Start and its battery

In May 2023, the diagnostic found that car needed a new Stop/Start battery as "it is meant to be 800a and it is down to 382a". In November 2023, Northridge Finance told us that the supplying dealership had now fixed this issue. But even if this repair had not been carried out by them, I could not say that most likely there was a fault present or developing with the Stop/Start and its battery at the point of supply. I say this because Mr S did not originally raise this issue with the dealership in September 2022 when he raised other issues. So had this issue been present earlier, most likely Mr S would have raised it earlier than he did in November 2022. The car had covered around 19,910 miles when supplied, so it is reasonable to expect there to be some wear to it. And batteries are a wear and tear item, so I think most likely it would need changing due to normal wear and tear process and not because there was an issue with it at the point of supply.

Rear paint defect on bumper

Mr S raised an issue with the rear paint defect on the bumper within the first two weeks of acquiring the car. In May 2023, the diagnostic found that car's rear bumper had only two cosmetic scratches, and in November 2023, Northridge Finance told us that the supplying dealership had now fixed this issue. But even if this repair had not been carried out by them, I most likely could not say that this would mean that this issue made the car of unsatisfactory quality. I say this because from the photos that were attached to the emails that Mr S sent to the dealership, I cannot see any visible damage. But even if I was able to say that, most likely, there were some faults with the paint work on the bumper, I still would not be able to say that the car was not satisfactory quality at the time of supply because Mr S bought a second-hand car that was around four years old and had travelled approximately 19,910 miles. As such, it is reasonable that the car's paintwork would have been subject to some wear and tear. Also, I cannot say that most likely the car was not as described because I have not seen enough to be able to see what work was done to the bumper, or was agreed to be done, before Mr S took possession of the car.

Excessively worn tyres and geometry/alignment of wheels

I can see from the evidence on file that on 28 February 2023, in an email to the dealership, Mr S said that he would like the dealership to investigate and rectify "Rear tyres excessively worn at inner edge (2mm), Rear camber 4.5deg misalignment (will require adjustable joint)". In that correspondence Mr S indicates that he first flagged this fault about 10 weeks after the point of supply and when the car had travelled around 2,500 miles. And he has told us that he flagged this issue over the telephone. But I have not seen enough evidence to say that, most likely, he did flag this after the car had only travelled 2,500 miles from the point of sale. I say this because in the email dated 28 February 2023, Mr S said that he had no further communication from the dealership since 17 Nov 2022. Also, in all his other written correspondence with the dealership he includes a lot of detail about all the other issues but never mentions this issue at all, until 28 February 2023. And considering how big of an issue this was, and how important it was to him compared to the other faults in question I think, most likely, Mr S would have mentioned this in writing to them at least once in the past. So I think, most likely, the first time he mentions the issue with misalignment is on 28 February 2023, when he has had the car for about six months and had travelled about 6,000 miles.

Regardless of the above, to uphold this complaint and say that Northridge Finance is responsible for the tyres and the misalignment issues, I would need to be persuaded on balance of probabilities, that the fault of the geometry/alignment was present or developing at the point of supply. Also, separately I could conclude that Northridge Finance is responsible for the tyres only, if the car was supplied to Mr S with tyres that were unsafe at the time of supply.

I do not know what thread was remaining on tyres at the point of supply, but, as I said above, when the car went in for the MOT at the end of June 2022, shortly before Mr S acquired the car, it had an MOT done and it passed with no advisories noted at all. So I think, most likely, the tyres would be within the allowed safety standard at the time of supply. And as tyres are a wear and tear item, I do not think Northridge Finance would be responsible for replacement of tyres, unless the fault of the geometry/alignment was present or developing at the point of supply.

Mr S had provided us with a car health check from a third-party garage that was done on 2 December 2022, when the car had travelled around 2,721 miles since the point of supply. So, I have taken this into consideration. This document states that the wheel alignment was not in manufacturer's specification, and it provides a figure for "Pre" adjustment and one for "Post" adjustment. But I do not think that this automatically means that there was an issue with the geometry/alignment present or developing at the point of supply. I say this for a few different reasons.

The health check indicates that both tyres in the back have a tread of 5.0, and it does not indicate that the rear tyres are excessively worn at inner edge. If the alignment was an issue at the point of supply, I think there would be more of an impact on the tyre thread considering that Mr S had travelled around 2,721 miles since point of supply up to when that health check is completed. The health check also does not indicate that any parts were replaced or needed replacing to adjust the wheel alignment. Also, it does not stipulate to the nature of why the alignment is not within the manufacturer's specification, what has caused it, or when it may have started to occur. So overall, I have not seen enough evidence to say that, most likely, the geometry/alignment needed adjusting in August 2022 (at the point of supply).

Also, I understand that the geometry/alignment of wheels on a car can be affected by many different reasons, among others, including driving over potholes, speed bumps, hitting a kerb and certain car repairs, so I also must take into consideration how many miles the car had travelled before the geometry/alignment of the wheels needed adjusting. And this was more than 2,721 miles since the point of supply. So overall, taking into consideration the number of miles the car had travelled, I cannot say that, most likely, this was a fault that was present or developing at the point of supply.

I know that Mr S thinks that he should be entitled to reject the car. But the CRA sets out that Mr S has a short term right to reject the car within the first 30 days, if the car is of unsatisfactory quality at point of supply, and he would need to ask for the rejection within that time. Mr S would not be able to retrospectively exercise his short term right of rejection at a later date, except if the car acquired was not of satisfactory quality or not as described, and he had exercised his right to a repair which had not have been successful. Only then Mr S would still be entitled to return the car after the first 30 days – this is called his final right to reject. So, Mr S does not have an automatic right to return the car if there is a fault. For me to conclude that Mr S can now exercise his right to reject the car, I would need to see that the car was not of satisfactory quality, and that an attempt at the repair has failed. I have taken all the above faults into consideration, but I do not think that the car was of unsatisfactory quality when supplied to Mr S. And as such, I do not think it would be fair or reasonable for him to have the right to reject the car.

Mr S has also told us how all these issues have had an impact on him and his family's life, so I would like to express my considerable sympathy for the position Mr S is in. I know this has been a very difficult time for him. And I've considered this but while I sympathise with Mr S for the difficulties that he is experiencing, taking all the circumstances of the complaint into account, I do not think it would be fair or reasonable to ask Northridge Finance to do anything further regarding his complaint.

My final decision

For the reasons given above I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 30 May 2024.

Mike Kozbial
Ombudsman