

The complaint

Mr H complains that the car he acquired through a hire purchase agreement (personal contract purchase agreement) with MotoNovo Finance Limited wasn't of satisfactory quality.

What happened

In June 2021, Mr H acquired a used car through a personal contract purchase agreement with MotoNovo. He paid a deposit of £3,000 and received credit of £24,500 repayable over 49 months. Mr H was required to make 48 monthly repayments of around £444 followed by a final repayment of £10,084.

Mr H says that the car's engine failed on 16 December 2022. He says there were no prior issues with the engine and that he had maintained the car in line with the manufacturer's requirements. Mr H took the car for diagnostics and was told that the turbo impellor had snapped, and pieces had gone into the engine causing the engine to fail and a replacement engine was needed. Mr H complained to MotoNovo that the car supplied to him wasn't fault free due to the issue that arose and that it hadn't lasted a reasonable amount of time noting the engine failed when the car was less than five years old and had been driven 60,000 miles.

MotoNovo responded to Mr H's complaint saying that as he had been in possession of the car for more than six months, he was required to show that the faults present with the car existed at the point of supply and that they meant the car wasn't of satisfactory quality or not fit for purpose at that time.

Mr H wasn't satisfied with MotoNovo's response and referred his complaint to this service.

Our investigator upheld this complaint. They didn't think the car was sufficiently durable.

MotoNovo didn't agree with our investigator's view. It said that there was no evidence to support our investigator's comment that the car was not of satisfactory quality at sale, nor evidence to support the claim that the turbo failed prematurely. It said there was no definitive timeline for how long a turbo should last and like other wear and tear items the lifespan is affected by the user input and driving style.

My provisional conclusions

I issued a provisional decision on this complaint. My findings are set out below.

Mr H acquired a car through a personal contract purchase agreement. Under the regulations, specifically the Consumer Rights Act 2015, the car was required to be of satisfactory quality at the point of supply. If the car wasn't of satisfactory quality at supply, then MotoNovo, as the finance provider, can be held liable.

When considering satisfactory quality, it is reasonable to consider factors such as the car's age and mileage and the car's cost. It is also important to assess whether the car was sufficiently durable.

Mr H acquired a used car in June 2021. At the time of acquisition, the car was just over three years old and had been driven just under 36,000 miles. The car's engine failed in December 2022 when the car had been driven over 64,000 miles. Mr H took the car for diagnostics on 3 January 2023 and was told 'Checked turbo and found impeller broken in half and not spin when engine it trying to start...Advise customer replace engine'. Further diagnostics undertaken in February 2023 found 'top turbo damaged fins cracked/bent....Requires removal of turbos to inspect second turbo'. Further investigation was then said to be needed. Based on the information provided and the fact the car's engine stopped working, it is clear there is a fault with the car that became apparent in December 2022.

However, for me to uphold this complaint I would need to be satisfied that the issue that caused the engine failure was due to a fault that was present or developing at the point of supply or that the issue with the car meant it wasn't of satisfactory quality.

In this case, Mr H was able to drive the car for around 18 months before the issue arose. He said that he hadn't experienced issues before this date. The car had undergone an MOT in February 2022, while in Mr H's possession and had initially failed due to a fuel system component leaking but this must have been repaired as the car passed the MOT the following day. This suggests the car was fit for purpose.

Mr H had also had the car serviced in May 2022, and this hadn't raised issues that would have suggested the problems experienced in December 2022, were present at that time. Given the time Mr H was able to drive the car and the mileage he was able to cover, before the issues arose, I do not find I have enough evidence to be able to say that the turbo and engine failure were due to a fault that was present or developing at the point of supply.

I have therefore considered whether I think the car was of satisfactory quality at supply, specifically whether the issue that arose means the car wasn't sufficiently durable. Based on the information provided, it appears that the issue that caused the engine to fail was a result of an issue with the turbo. When this happened, the car had been driven over 64,000 miles. While I understand Mr H's comment that this shouldn't have happened given the car's age and mileage, and that he had maintained the car in line with the manufacturer's guidelines, I also note that the turbo's lifespan can vary and be affected by driving style. So, without further evidence to show that the turbo was faulty and that this resulted in it failing prematurely, and considering how long Mr H had been in possession of the car and the mileage he had driven, I do not find I have enough evidence to say that the car supplied wasn't sufficiently durable.

Mr H didn't accept my provisional decision. He said that the estimated life expectancy of the turbo was around 150,000 miles which suggested the turbo in his car hadn't lasted a reasonable amount of time and so wasn't sufficiently durable. He said that a manufacturer bulletin indicated that there were faults with the engines in these cars and he didn't accept the car was supplied fault free.

Mr H provided a letter from the garage that said that when a turbo fails there isn't always any warning and that due to the damage caused it was unlikely to be able to determine the cause. It said there were many cases of premature turbo failure on these engines and that its opinion was that premature failure was a failure before 150,000 miles. The letter said that the damage wouldn't have been caused by driving style and that if the engine wasn't internally inspected before supply to Mr H then it couldn't be said it was of satisfactory quality at supply. It further noted that the manufacturer guidelines showed servicing intervals up to 105,000 miles or 10 years (120 months) which it said confirmed the life expectancy to last beyond this point. As Mr H's car had failed before this time it said the car had failed prematurely and was not durable.

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.

Where the evidence is incomplete, inconclusive or contradictory I have made my decision based on the balance of probabilities. That is, what I consider most likely to have happened given the evidence provided and the wider circumstances of the complaint.

Mr H provided further evidence in response to my provisional decision, and I have considered this alongside reviewing the previous evidence provided. Looking at the details of what has happened, the key issue is the durability of the turbo as it appears it was the failure of the turbo that caused the engine damage.

In its final response letter, MotoNovo said that evidence should be provided to show that the car wasn't of satisfactory quality and said this would need to be in the form of an independent engineer's report and that this would need to confirm the faults were present or developing at the point of supply. Details of companies that could undertake this report were provided. I haven't seen evidence that Mr H had an independent inspection carried out by one of the suggested companies, but he has provided evidence from a garage which I have taken into consideration in my assessment.

As I set out in my provisional decision, Mr H was able to drive for around 18 months and almost 30,000 miles without an issue being identified, and he had an MOT and service carried out. Had there been an issue with the turbo present or developing at the point of supply I find, on balance, that it would likely have been identified sooner.

However, I have also considered the point raised as to whether there is a durability issue due to when the turbo failed. I have taken into account the comments made about the life expectancy of a turbo. I appreciate the miles suggested are higher than the mileage Mr H's car had travelled at the time the issue occurred, however, I also note that Mr H covered a high mileage in the period he was using the car (average annual mileage is generally around 8,000 to 10,000 miles). Durability can be affected by particular conditions that put more stress on certain parts and so while I can see the garage has said the turbo wouldn't be affected by driving style, I do not think I have enough to say, given the mileage Mr H covered that I have the evidence to say the car wasn't sufficiently durable or wasn't of satisfactory quality at the point of supply.

I have looked at the technical bulletin Mr H provided about an issue with the turbos in vehicles similar to his. Based on the information in the bulletin it isn't clear that this relates to the model that Mr H has. But putting that aside, the bulletin says that in some cases prior to a turbo failing it may start to whine or whistle. I note the comment made in regard to this technical bulletin by the garage, but I am not aware that Mr H reported there being a whine or whistle, rather that the oil warning light came on saying the oil was critically low.

Therefore, while I have taken the points raised about the turbos into consideration, I do not find that the evidence supplied is sufficient for me to change my conclusions as set out in my provisional decision.

I know this isn't the outcome Mr H wants and I appreciate him taking the time to provide additional information in response to my provisional decision. But in this case, I do not find I have enough evidence to uphold this complaint.

My final decision

My final decision is that I do not 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 18 December 2023.

Jane Archer
Ombudsman