

The complaint

Mr N complains about the quality of a car he acquired under a hire purchase agreement ("agreement") with MotoNovo Finance Limited ("MotoNovo").

Mr N is represented in his complaint by a third party. But for ease I will simply refer to Mr N in this decision and not Mr N and his representative.

What happened

On 24 May 2022 Mr N entered into an agreement with MotoNovo for a used car costing £8,320. The car was approximately six and half years old and came with an odometer reading of 62,700. Mr N 'financed' the sum of £9,172.33 (due to a finance shortfall payable on his part exchanged car).

Under the terms of the agreement, everything else being equal, Mr N undertook to make 47 monthly payments of £242.38 followed by 1 monthly payment of £243.38 making a total repayable of £11,635.24 at an APR of 12.9%.

On 22 December 2022 Mr N paid a garage that I will call "W" £728.42 to supply and fit a new intercooler unit and hose. W recorded the mileage as being 77,877.

On 9 January 2023 Mr N paid W £99.00 to investigate the loss of coolant. W recorded the mileage as being 79,345.

On 13 January 2023 Mr N paid W £316.49 to supply and fit a new coolant expansion tank. W recorded the mileage as being 79,473.

On 18 January 2023 Mr N paid W £709.68 to supply and fit a NOX sensor. W recorded the mileage as being 79,542.

On 20 February 2023 Mr N complained to MotoNovo about the quality of the car he had acquired.

On 20 February 2023 MotoNovo issued Mr N with a final response letter ("FRL"). Under cover of this FRL MotoNovo said that without an independent report confirming one or more of the faults with the car were present or developing at the point of sale, it wasn't liable to compensate Mr N.

On 13 March 2023 Mr N paid W £3,772.09 for various works. W recorded the mileage as being 79,577.

On 6 April 2023, and unhappy with MotoNovo's FRL, Mr N complained to our service.

Mr N's complaint was considered by one of our investigators who came to the view that on the balance of probabilities the car was, more likely than not, of satisfactory quality at the point of sale.

Mr N didn't agree and so his complaint has been passed to me for review and 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 can confirm that I've come to the same conclusion as the investigator and for the same reasons. There is also very little I can usefully add to what has already been said.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

I would also add that where the information I've got is incomplete, unclear, or contradictory, I've to base my decision on the balance of probabilities.

Mr N's complaint is about a car supplied under a hire purchase agreement. Entering into consumer credit contracts like this as a lender is a regulated activity, so I'm satisfied I can look into this complaint.

When considering what's fair and reasonable, I take into account 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's an implied term that the quality of those goods is satisfactory. It goes on to explain that things like safety, durability and freedom from minor defects can all be aspects of the quality of goods.

The standard that's applied is whether a reasonable person would consider the quality of the goods to be satisfactory, taking into account the way they were described, the price and all the other relevant circumstances. It seems likely that in a case involving a car, the relevant circumstances a court would take into account might include things like its age, mileage, and history.

In this case, I bear in mind that the car was approximately six and half years old and had covered around 62,700 miles when it was sold to Mr N and the cost of the car was substantially less than it was when new.

It's not in dispute that the car had a number of faults that required repair at a not insignificant cost to Mr N. But I'm not persuaded, on the balance of probabilities, these faults were present or developing at the point of sale, something that I would need to be satisfied was the case in order to uphold Mr N's complaint. I say I'm satisfied that the faults weren't present or developing at the point of sale because:

- Mr N was able to add over 15,000 miles to the car's odometer before a 'first' repair was required.
- Mr N was able to add nearly 17,000 miles to the car's odometer before a 'second' repair was required.
- Mr N hasn't provided any documentary evidence, such as an inspection report, to demonstrate the various faults were present or developing at the point of sale.
- The car passed its MOT on 26 May 2022, with no advisories.
- The repairs required weren't incommensurate with the cars age and mileage.
- Given the age of the car and the miles travelled when the first repair was required I've no concerns about the durability of the car or its parts.

So in summary I'm satisfied, on the balance of probabilities, that the car was of satisfactory quality when sold to Mr N.

Mr N has suggested that, for various reasons, he might now be financial difficulties. If this is the case I would remind MotoNovo of its responsibilities to treat him with forbearance and due consideration going forward.

My final decision

My final decision is I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 11 November 2023.

Peter Cook
Ombudsman