

## **The complaint**

Miss C complains about the quality of a car she acquired through a hire purchase agreement financed by MotoNovo Finance Limited (MotoNovo).

## **What happened**

In July 2020 Miss C acquired a used car through a hire purchase agreement.

Miss C experienced problems with the heating/cooling system and the gears shortly after acquiring the vehicle. Sometime in October 2020 the dealership paid for a replacement inter-cooler in the gearbox to try and resolve the problem, and the oil was changed as it was contaminated with water.

Miss C complained to MotoNovo in October 2020 because the heating still wasn't working and there were faults with the gears.

MotoNovo arranged for an inspection of the vehicle, which took place in October 2020. That inspection found that there was excessive contamination in the coolant reservoir, which the engineer suspected was due to an EGR valve or other oil cooler defect, which needed further and immediate attention. It also found that one side of the heating operated cool air only, and the engineer suspected an internal fault with the unit. The report concluded that neither fault was present at the time the vehicle was supplied to Miss C, because of the time elapsed and the mileage covered since then.

MotoNovo sent Miss C their final response to her complaint in October 2020. They upheld Miss C's complaint in part because the dealership had carried out some work to resolve the faults. But they said the vehicle was of satisfactory quality because the current faults were not present or developing at the point of sale according to the inspection, and so they wouldn't do anything further.

In December 2020 Miss C paid £680 to have the oil cooler replaced, the cooling system flushed, and anti-freeze added.

In February 2021 Miss C took the car to a manufacturer dealership to investigate a coolant leak, and the heating not working. They diagnosed several leaks in the cooling system of the vehicle. Miss C paid £2,071.82 to repair the vehicle.

In March 2021 a gearbox warning light appeared on the dashboard. Miss C took the vehicle back to the manufacturer garage who diagnosed water in the harness which had caused corrosion. Miss C paid £3,496.66 to have the vehicle repaired.

Miss C complained again to MotoNovo about the quality of the vehicle in March 2021. MotoNovo sent Miss C their final response to her complaint in March 2021. They said the inspection carried out in October 2020 found the faults weren't present or developing at the point of sale, and they couldn't inspect the vehicle again because the repairs had been completed. They said there was no evidence that the vehicle was of unsatisfactory quality at the time it was supplied to Miss C, so they didn't uphold her complaint.

Unhappy with their response, Miss C brought her complaint to us for investigation. Our investigator gave her view that Miss C had experienced problems with the gears shortly after acquiring the vehicle, this hadn't been reported on during the inspection that MotoNovo carried out, and given the age and mileage at the time the car was supplied, she didn't think it was of satisfactory quality.

Our investigator recommended that Miss C be allowed her final right to reject the vehicle, and that MotoNovo should collect the car at no cost to Miss C, Refund half of Miss C's monthly payment for March 2021 as she was without a vehicle whilst repairs took place plus interest, refund Miss C £5,568.48 for the repairs completed plus interest, pay Miss C £100 compensation and remove any adverse information from Miss C's credit file.

Miss C said that the car had developed another fault with the alternator, which made it undrivable. She provided evidence that she'd been unable to drive the car since May 2021 due to this fault. Our investigator recommended that MotoNovo refund Miss C's monthly payments from May 2021.

Miss C told us that she paid £800 to have the alternator repaired in October 2021 because she needed the car to stay mobile.

MotoNovo didn't respond to our investigators view, so the case was passed to me for a decision.

I issued a provisional decision on this complaint in April 2022 recommending that it was upheld. I made the following provisional findings:

*'In considering what's fair and reasonable, I need to have regard to the relevant law and regulations. The agreement in this case is a regulated hire purchase agreement – so we can consider a complaint relating to it. MotoNovo as the supplier of the goods under this type of agreement is responsible for a complaint about their quality.'*

*The Consumer Rights Act 2015 is relevant to this complaint. It says that under a contract to supply goods, there is an implied term that the "quality of the goods is satisfactory".*

*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 other relevant factors. Those factors, in the case of a car purchase, will include things like the age and mileage of the car at the time of sale, and the car's history.*

*The quality of the goods includes their general condition and other things like their fitness for purpose, appearance and finish, safety and durability.*

*Here, the car was acquired used with a cash price of around £13,000. It was almost eight years old and had travelled around 66,000 miles at the time of supply. With this in mind, I think it's reasonable to say that the expectation of quality is lower than that of a new or younger second-hand car. The price for the vehicle is lower, and this is reflective of the fact that the car is more road worn. The chance of encountering a serious issue sooner, is higher.*

*Miss C reported problems with the gears and the heating system shortly after she acquired the vehicle. A number of investigations took place by garages and there were some repairs completed, including changing the oil, but the fault with the gears continued. The engineer appointed by MotoNovo didn't report on the gears when they completed their inspection in October 2020.*

*The faults rectified by Miss C in March 2021 appear to be linked to the earlier faults, with a number of leaks identified in the cooling system, and the gears being contaminated with water. I'm satisfied that the repairs completed in March 2021 were linked to the faults that Miss C began experiencing early in the agreement.*

*The faults don't appear to have been caused by driving style or third-party damage, and I've seen evidence that the car has been serviced in line with manufacturer guidelines, so they don't appear to be as a result of poor maintenance. There has been a suggestion that the faults with the heating system were due to wear of the vehicle, but the engineer didn't report on the fault with the gears, and the car wasn't road tested although Miss C had said the issue could only be felt while the car was in motion.*

*All things considered, I don't think a reasonable person would expect such a serious fault with multiple leaks and water corrosion in the gearbox to have occurred in a car of this age and mileage, so soon after acquiring it. On the balance of probabilities, I'm persuaded that the car was not reasonably durable, and therefore was not of satisfactory quality at the time of supply.*

*Having made that finding, I need to decide what, if anything, MotoNovo should do to put things right.*

*The Consumer Rights Act set out the remedies available where goods are considered not to be of satisfactory quality and one of the remedies is the final right to reject the vehicle, which is what our investigator recommended. However, this right can only be exercised where the goods have not been repaired. As the repairs are now complete and the vehicle has been returned to a satisfactory condition, Miss C no longer has a right to reject the vehicle.*

*So, I've gone to consider whether MotoNovo should reimburse Miss C for the costs of repairing the vehicle. There have been a number of faults identified, and a number of repairs completed. I've considered whether they were things that made the vehicle of unsatisfactory quality at time of supply, or whether they were wear and tear issues where I would expect Miss C to be responsible for these costs.*

*I've considered each of the invoices submitted by Miss C.*

- 1. Supply and fit of a pressure switch and re-gas the air con system - £100*

*I've seen no evidence that this repair was related to the fault with the gears, and it appears to be due to maintenance of the vehicle. So MotoNovo aren't responsible for this cost.*

- 2. Front lower arms replaced - £660*

*This repair relates to the suspension brushes, which are an item normally subject to wear on a vehicle and require replacement during the life of the car. I think this is a normal wear and tear issue for a car of this age and mileage, and doesn't make the car of unsatisfactory quality, so Motonovo aren't responsible for this cost*

- 3. Supply and fit oil cooler and header tank. Flush cooling system and add antifreeze - £680*

*This repair appears to have been an attempt to fix the problems with the cooling system, which led to the problems with the gears. As I've set out above, I think this fault made the car of unsatisfactory quality at the time it was supplied to Miss C, So MotoNovo should refund Miss C for this repair, plus 8% simple interest from the date of payment, to the date of settlement.*

4. Investigate and repair leaks to cooling system - £2,071.82

*For the reasons I've set out above, this fault made the car of unsatisfactory quality at the time it was supplied to Miss C, So MotoNovo should refund Miss C for this repair, plus 8% simple interest from the date of payment, to the date of settlement.*

*Miss C was unable to drive the vehicle for around one week whilst these repairs were completed, and she wasn't kept mobile in this time. So, MotoNovo should refund one week of Miss C's monthly payments for the period she was unable to use the vehicle.*

5. Repair to contaminated gearbox system - £3,496.66

*For the reasons I've set out above, this fault made the car of unsatisfactory quality at the time it was supplied to Miss C, So MotoNovo should refund Miss C for this repair, plus 8% simple interest from the date of payment, to the date of settlement.*

*Miss C was unable to drive the vehicle for around one week whilst these repairs were completed, and she wasn't kept mobile in this time. So, MotoNovo should refund one week of Miss C's monthly payments for the period she was unable to use the vehicle.*

6. Replace alternator due to failure - £800

*Miss C reported that the alternator on her vehicle had failed, meaning that the car wouldn't start, in around May 2021. It was undrivable until the repair was completed in October 2021.*

*Miss C had the vehicle for almost a year at this point, and according to its MOT history from October 2021, it had travelled around 82,000 miles. Whilst an alternator might last the lifetime of a vehicle, they can require replacement anywhere from around 80,000 miles.*

*Whilst needing to replace it at the earlier end of how long it might last for is unfortunate, it doesn't necessarily mean that it wasn't reasonably durable. So, I'm not persuaded that this fault made the car of unsatisfactory quality at the time it was supplied to Miss C, and MotoNovo aren't responsible for this cost, or any costs associated with this repair that Miss C faced in keeping herself mobile.*

*Miss C has been put to inconvenience in taking the vehicle for a number of investigations, and in having to have the repairs completed herself. MotoNovo should pay Miss C £100 compensation to reflect this.'*

Miss C responded to my provisional decision. She said she'd hoped to be able to return the car, but provided it was now fixed she was happy with the outcome.

MotoNovo didn't respond 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.

For the reasons I explained, Miss C doesn't now have a right to reject the vehicle, because it's been returned to a satisfactory condition. Should she experience any problems with it in the future, she'll need to raise these with MotoNovo.

As neither party has raised any new arguments, or sent me new information to consider, for the same reasoning that I set out in my provisional decision, I've decided to uphold this complaint.

## **Putting things right**

For the reasons set out in my provisional decision, MotoNovo should refund Miss C for the repairs completed to faults which made the vehicle of unsatisfactory quality, which were; the oil cooler and header tank, leaks to the cooling system, and the repair to the gearbox.

Miss C was unable to drive the vehicle for a week whilst the cooling system was repaired, and for another week whilst the gearbox was repaired, and she wasn't kept mobile during this time. So, MotoNovo should refund half of Miss C's March 2021 monthly payment to reflect the time she was without a vehicle.

Miss C has been put to inconvenience in taking the vehicle for a number of investigations, and in having to have the repairs completed herself. MotoNovo should pay Miss C £100 compensation to reflect this.

## **My final decision**

My final decision is that I uphold this complaint and I require MotoNovo Finance Limited to:

- Refund Miss C £680 for the repair to the oil cooler and header tank, plus 8% interest from the date of payment to the date of settlement.
- Refund Miss C £2,071.82 for the repair to the cooling system, plus 8% interest from the date of payment to the date of settlement.
- Refund Miss C £3,496.66 for the repair to the gearbox, plus 8% interest from the date of payment to the date of settlement.
- Refund half of Miss C's March 2021 monthly payment to reflect the time she was without a vehicle, plus 8% interest from the date of payment to the date of settlement.
- Pay Miss C £100 compensation to reflect the distress and inconvenience caused.

If MotoNovo considers that it's required by HM Revenue & Customs to withhold income tax from the interest part of my award, it should tell Miss C how much it's taken off. It should also give Miss C a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 24 June 2022.

Zoe Merriman  
**Ombudsman**