

The complaint

Mr O complains about the quality of a car he has been financing through an agreement with MotoNovo Finance Limited (“MotoNovo”).

What happened

I issued provisional decisions on this complaint in February and April of this year. An extract from my most recent provisional decision is set out below.

Mr O took receipt of a used car in January 2021. He financed the deal through a hire purchase agreement with MotoNovo. At the point of supply the car was approaching seven years old and had already done a little more than 56,000 miles, although the exact mileage isn't clear.

Mr O broke down on 23 July 21. The garage noted that the fuel pump had been starved of fuel, the filter was blocked, and the fuel pump had failed.

Mr O asked MotoNovo to repair the car but they refused. So, Mr O referred his complaint to this service.

Our investigator thought MotoNovo hadn't been fair. He thought the car hadn't proven durable and he suggested MotoNovo pay to repair the car for Mr O.

MotoNovo disagreed and asked for a decision by an ombudsman.

What I've provisionally 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'm expecting to uphold this complaint, but the redress is a little different than our investigator had suggested. Please let me explain.

the information I've got is incomplete, unclear, or contradictory, as some of it is here I have to base my decision on the balance of probabilities. 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.

Mr O acquired his car under a hire purchase agreement. This is a regulated consumer credit agreement and as a result our service is able to look into complaints about it.

The relevant law says, amongst other things, that the car should have been of satisfactory quality when supplied. If it wasn't then MotoNovo, who are also the supplier of the car, are responsible. The relevant law also says the quality of goods is satisfactory if they meet the standard that a reasonable person would consider satisfactory taking into account any description of the goods, the price and all the other relevant circumstances.

In a case like this which involves a car the other relevant circumstances would include things like the age and mileage at the time the car was supplied to Mr O. The car here was about seven years old and had already completed over 56,000 miles although the exact mileage isn't clear.

The relevant legislation explains that if the fault occurs within the first six months we are to assume it was present at the point of supply, when MotoNovo were responsible for its quality. But MotoNovo say as the fault with this car occurred 11 days after the six-month period we should assume the fault wasn't present at the point of supply. They say it's most likely the fuel pump failure is the result of normal wear and tear.

When we consider whether goods are of satisfactory quality the relevant legislation says we should also consider whether they have proved durable. I'm not persuaded that a reasonable person would think a fuel pump that had been serviced correctly, as this one had, should fail after only 59,000 miles of driving.

I don't think it's necessary to instruct an independent engineer to examine the car here. Online research suggests a fuel pump should last about 100,000 miles and I think it's therefore likely this one has failed prematurely and as a result I think the car has been of unsatisfactory quality.

Putting things right

The relevant legislation says that businesses should be given one opportunity to repair faults that were most likely present, or developing, at the point of supply, as I think this fault was. The investigator therefore suggested that MotoNovo should repair the car and I'd agree. But the investigator didn't consider that Mr O has been paying for a car since 23 July 2021 that he hasn't had use of. I think MotoNovo should refund (or waive if they haven't been paid) any finance instalments that have been paid by Mr O from 23 July 2021 when the car broke down until the date it is repaired. They'll need to add interest to the refund as Mr O has been deprived of the money.

I also think it's clear Mr O has been inconvenienced by these issues. He broke down on the motorway and has had to escalate his complaint to this service when I think it could have been resolved earlier for him. In those circumstances, I'm expecting to tell MotoNovo to pay him £200 compensation.

My provisional decision

For the reasons I've given above I'm expecting to uphold this complaint and tell MotoNovo Finance Limited to:

- *Collect and repair the car at no cost to Mr O,*
- *Refund any finance instalments Mr O has made from the point at which the car broke down (23 July 2021) until the date it is repaired. Add 8% simple interest per year to the refund from the date of payment to the date of repair.*
- *Pay Mr O £200 to compensate him for the distress and inconvenience he's experienced.*

What I've provisionally 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.

MotoNovo didn't provide any further information but Mr O did. He told us that he had the car repaired on 25 October 2021 and he provided receipts for that work totalling £7,150.

He also provided a further receipt for £350, dated 16 November 2021, and explained that was for work completed because during the initial repair "one of the coolant feed pipes was disturbed and that had to be replaced as well".

It's disappointing that Mr O didn't tell us he was arranging that work as I wouldn't have suggested MotoNovo collect and repair the car had I known. I've thought about whether that impacts the decision I'm likely to make here but I don't think it makes too much difference. The file notes suggest the repair was likely to cost in the region of £8,000 and Mr O has spent less than that. As the repair appears to have been successful I think it's likely that even if MotoNovo had been given a chance to fix the car they would have done the same work and at a similar cost.

So, I'm expecting to tell MotoNovo to refund the repair cost of £7,150 that Mr O has provided a receipt for.

I'm not expecting to tell MotoNovo to refund the £350 Mr O paid to have the coolant pipe replaced in November 2021. That's because I haven't seen sufficient evidence that that repair was required to remedy the problem Mr O had in July 2021. Mr O has explained that the coolant pipe was "disturbed" during the repair. That's not something I think it would be fair to ask MotoNovo to pay for as that would suggest it was not something that was wrong when the car was supplied to him.

My provisional decision

I'm expecting to uphold this complaint and to tell MotoNovo Finance Limited to:

- *Refund the repair cost of £7,150 that Mr O has provided a receipt for.*
- *Refund any finance instalments Mr O has made from the point at which the car broke down (23 July 2021) until the date it was repaired (25 October 2021). Add 8% simple interest per year to the refund from the date of payment to the date of repair.*
- *Pay Mr O £200 to compensate him for the distress and inconvenience he's Experienced.*

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.

Mr O and MotoNovo accepted my provisional decision and I've therefore seen no reason to change it.

Putting things right

My most recent provisional decision therefore becomes my final decision on this complaint.

My final decision

For the reasons I've given above I uphold this complaint and to tell MotoNovo Finance Limited to:

- Refund the repair cost of £7,150 that Mr O has provided a receipt for.
- Refund any finance instalments Mr O has made from the point at which the car broke down (23 July 2021) until the date it was repaired (25 October 2021). Add 8% simple interest per year to the refund from the date of payment to the date of repair.
- Pay Mr O £200 to compensate him for the distress and inconvenience he's Experienced.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 14 July 2022.

Phillip McMahon
Ombudsman