

## **The complaint**

Mr S complains about the quality of a car he has been financing through an agreement with MotoNovo Finance Limited, who I'll call MotoNovo.

## **What happened**

The details of this complaint are well known to both parties, so I won't repeat them again here. Instead, I'll focus on giving my reasons for my 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.

I know it will disappoint MotoNovo, but I don't think this car has been of satisfactory quality. I'll explain why.

Where 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 S acquired his car under a regulated consumer credit agreement and as a result our service is able to look into complaints about it.

The Consumer Rights Act (2015) is the relevant legislation. It says 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 S. The car here was five years old and had completed about 39,500 miles.

The relevant legislation also says that when we think about whether goods have been of satisfactory quality we should consider whether they have been durable. And here I don't think Mr S's car has been durable as I don't think a reasonable person would expect it to have experienced such a catastrophic engine problem after only 2,500 miles, or so, of driving, and having completed a little under 42,000 miles in total.

The evidence suggests that Mr S had the car serviced correctly, a service was completed in October 2022, four months before the engine failed, and the oil was replaced. I don't think

there's therefore sufficient evidence to suggest Mr S contributed to the problem by, for instance, poorly maintaining the car. The independent inspector said:

*"Whilst the oil level was correct and there were codes to suggest an oil pressure issue, we do consider that the engine may have been operated with depleted oil and following the engine failure may have been topped up."*

I'm not persuaded there is sufficient evidence to support that allegation. Mr S had only driven 2,218 miles since the oil was replaced, and the independent inspector hasn't explained why the oil level would have depleted so fast. I think given that minimal mileage, and the fact the oil would have been replaced during services, it's unlikely Mr S would have contributed to the engine failure by driving the car with little oil in it. I'm also not persuaded it is necessary to strip the engine any further as I don't think that would change my opinion this engine has failed prematurely.

The relevant legislation allows a business one opportunity to repair a car that is of unsatisfactory quality, and I think MotoNovo had that opportunity when a repair was carried out in October 2022. As a further fault has now occurred they should now allow Mr S to reject the car.

### **Putting things right**

MotoNovo should collect the car at no cost to Mr S and they should end the finance agreement.

They'll need to refund any deposit/part exchange Mr S has paid and, as he's been deprived of that money, they will need to add interest to that refund.

Mr S has had to commission a diagnostic in order to support his claim. I think that cost has been incurred as a consequence of the car being of unsatisfactory quality. So, MotoNovo should refund the £84 that cost, and they should add interest to that refund too.

Mr S has been inconvenienced by these issues. He's had to take the car back to the dealership on several occasions and has had to make arrangements to be present during the independent inspection. He's also had to escalate his complaint to this service when I think it could have been resolved earlier. In those circumstances MotoNovo should pay him £200 compensation for the distress and inconvenience he's experienced.

Mr S hasn't been able to use the car since it broke down on 26 February 2023. It's not fair for him to have been paying for a car he couldn't drive so MotoNovo should refund any finance instalments that have been paid since 26 February 2023 and they'll need to add interest to that refund.

### **My final decision**

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

- Allow Mr S to reject the car and end the finance agreement.
- Collect the car at no cost to Mr S.
- Refund any deposit and part exchange contribution that has been paid and add 8% simple interest per year from the date of payment to the date of settlement;

- Refund the £84 Mr S paid for a diagnostic and add 8% simple interest per year from the date of payment to the date of settlement.
- Pay Mr S £200 to compensate him for the distress and inconvenience he's experienced.
- Refund any finance instalments Mr S has paid since the car broke down on 26 February 2023. Add 8% simple interest per year from the date of payment to the date of settlement.
- Remove any adverse reports they may have made to Mr S's credit file in relation to this issue.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 5 September 2023.

Phillip McMahon  
**Ombudsman**