

The complaint

Mrs S complains that a used car she had acquired via a hire purchase agreement with MotoNovo Finance Limited wasn't of satisfactory quality.

What happened

In April 2022 Mrs S entered into a 48-month hire purchase agreement with MotoNovo for a 10-year-old car that had a mileage of around 89,500. Mrs S purchased a warranty for the car at the same time.

Mrs S says that in August 2022 the car suffered an issue with its exhaust which she had to have repaired at the cost of £360. She also says that a few weeks later the car became sluggish, and the engine management light illuminated. Mrs S called the warranty company who advised her to take the car to a garage for diagnostics.

Mrs S was informed by the garage that the car's diesel particulate filter ("DPF") was severely blocked, but they would attempt to clean it. A few days later Mrs S says that the garage informed her that they weren't able to clean it and the DPF would need to be replaced at a cost of around £2,000 and that an air sensor was also faulty. She was informed that these repairs weren't covered by the warranty.

Mrs S was shocked at the cost and, as she had the car for less than six months, she complained to MotoNovo about the car's condition. It arranged for the car to be independently inspected.

The independent engineer inspected the car in October 2022. They took the car out for a short test drive as well as running diagnostics. They confirmed that the DPF was blocked and needed to be replaced. However, the engineer said that they didn't consider the fault with the DPF would have been present at the point of supply of the car to Mrs S as she had been able to drive around 3,000 miles in it since the agreement's inception. They said this problem would have manifested itself within around 1,500 miles.

The independent engineer said that also taking into account the age and overall mileage of the car they were satisfied it had been reasonably durable. They said the DPF would be expected to have a life span of around 90,000 miles.

MotoNovo didn't uphold Mrs S's complaint about the quality of the car as it said it accepted the independent engineer's findings. Mrs S disagreed with its view as she said she thought a DPF that was as severely blocked as this one should have given off significant warnings. She said that she didn't think a DPF could become as badly blocked as this one in such a short space of time. Mrs S made a complaint to this service.

Our investigator didn't recommend Mrs S's complaint should be upheld. She said that although the car had developed a fault, she accepted the report by the independent engineer that this had developed after the point of supply. Our investigator said the fault had arisen through wear and tear. She also said she thought the car had been reasonably durable given its age and mileage.

Mrs S disagreed with our investigator's view. She said she was an innocent person who, through no fault of her own, had been left with a financial mess. Mrs S said she accepted the DPF may have needed cleaning but not that it could have become as blocked as had been reported in such a short period. She queried why the car hadn't shown warning lights before it had gone into limp mode.

As the parties were unable to reach an agreement the complaint has been passed to me.

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.

When looking at this complaint I need to have regard to the relevant law and regulations, but I am not bound by them when I consider what is fair and reasonable.

As the hire purchase agreement entered into by Mrs S is a regulated consumer credit agreement this service is able to consider complaints relating to it. MotoNovo is also the supplier of the goods under this type of agreement and is responsible for a complaint about their quality.

Under the Consumer Rights Act 2015 there is an implied term that when goods are supplied the quality of the goods is satisfactory. The relevant law says that the quality of the goods is satisfactory if they meet the standard that a reasonable person would consider satisfactory taking into account any description of the goods, price and all other relevant circumstances.

The relevant law also says that the quality of the goods includes their general state and condition, and other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability can be aspects of the quality of the goods.

Here the car was around ten years old and had a mileage of about 89,500, so unlike a new car it wouldn't be expected to be fault free. The car's components would have been subject to wear and tear and a reasonable person (which is the test under the legislation) would expect there to be repairs and maintenance required after a reasonable period of time.

There isn't a dispute as to the fault with the car, the issue is whether the fault was either present or developing at the time Mrs S acquired it in April 2022. The independent engineer found that the *"engine management light and DPF warning light being illuminated and also on fault codes stored and live data reading of soot accumulation of 200%, this is all consistent with the DPF being blocked, resulting in the vehicle being in limp mode."* They also said *"We do not consider this issue would have been present or developing at the point of sale, as it would manifest itself within the first 1'500 miles from point of sale. We do not consider the selling agent is responsible for the cost of any repairs."*

Mrs S says the severity of the soot accumulation would mean that the issue had been building up over some time. She also disagrees that the way she used the car would have caused the issue. She says that she thinks that possibly the warning light may have been tampered with and that's why it didn't illuminate earlier. Mrs S says the car should have indicated earlier that there was a major fault developing.

I haven't seen any evidence that the car had been tampered with in some way to disguise there was a problem with the DPF. I'm aware there can be warning signs of the DPF becoming clogged such as a reduction in performance or an increase in fuel consumption

before the warning light illuminates. Looking at the independent engineer's report the warning lights being on have been noted so they didn't fail completely to illuminate.

The independent engineer has been clear that Mrs S wouldn't have been able to drive more than 1,500 miles if the DPF had been clogged when she had received the car. And taking into account that this is the opinion of an independent expert, then I think it's reasonable for me to accept that view. I haven't seen any evidence that would contradict what they said.

A DPF is designed to collect the soot that is created when diesel is burned when powering an engine. As the exhaust gases pass through the filter, they leave soot behind. DPFs have a cleaning or regeneration process to clean themselves. The car can regenerate the DPF automatically if it is driven at higher speeds and it is usually recommended by manufacturers that diesel cars are driven for a period over 15 minutes at a consistent speed in excess of 40mph every few 100 miles. But if this doesn't happen, then the car will raise the temperature of the exhaust gases to start the regeneration process, but this process can be interrupted for instance by driving short distances or not having sufficient fuel in the tank.

Mrs S disagrees she was using the car for short journeys only, but I don't know her style of driving and whether it had interrupted the DPF regenerating. Unless a driver is regularly using dual carriageways and motorways and driving over 12,000 a year then issues with the DPF can arise. I haven't enough evidence to say that the issue with the DPF wasn't due to wear and tear through Mrs S's use.

I also have to consider that DPF has a lifespan which the independent engineer described in their report as being between 70,000 and 90,000 miles. The car had travelled around 89,500 miles at its point of supply and so I think it's reasonable to consider that the DPF would have been a component that had suffered wear and tear at the time Mrs S acquired the car.

Mrs S has raised that when the car was inspected by the garage for an MOT in March 2023 a number of faults were identified, and the cost of repairs had increased from the original £2,000 to around £5,000. Mrs S says that as the car hadn't been used since October 2022 when it went into limp mode, then this shows the condition of the car when it had been supplied to her, but I'm afraid I disagree with that view. A car will deteriorate when left standing, so I can't reasonably say the quote for repairs Mrs S received in March 2023 reflects the condition of the car at the point of its supply.

I've also seen that Mrs S had to have repairs carried out to the car's exhaust system in August 2022. However, exhaust systems are items that require repair through wear and tear, and I haven't seen any evidence that this repair was unexpected for a car of this age and mileage. I don't think the exhaust repair is evidence that the car wasn't of a satisfactory standard.

Although I'm satisfied the car, and in particular the DPF, wasn't faulty at the point of supply of the car to Mrs S I still need to consider if the car was reasonably durable. As set out above, the car wouldn't be expected to be fault free and I've seen that Mrs S acknowledges that. A car of that age and mileage will require repairs and maintenance and unfortunately some of those repairs can be expensive. DPF faults arise for a number of reasons and not because they are necessarily inherently faulty. I think it's reasonable to consider the DPF was coming to the end of its life span, and I can't fairly say Mrs S's use of the car hadn't contributed to the wear and tear suffered by that component. I think it's reasonable to say the car was reasonably durable when it was supplied to Mrs S.

For the reasons given above I think the car was of satisfactory condition when it was supplied to Mrs S.

I appreciate my decision not to uphold Mrs S's complaint will be very disappointing to her and I do understand the financial implications of not finding MotoNovo responsible for the repairs. But here the evidence does not support the car was of unsatisfactory condition when Mrs S acquired it.

My final decision

For the reasons given I'm not upholding Mrs S's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 29 February 2024.

Jocelyn Griffith
Ombudsman