

The complaint

Mr G complains that a car acquired under a personal contract purchase (PCP) agreement with MotoNovo Finance Limited ("MotoNovo") wasn't of satisfactory quality when it was supplied to him.

What happened

The parties are familiar with the background of this complaint so I will only summarise what happened briefly here.

In December 2022, Mr G acquired a used car from a dealership (M). He paid a deposit for the car, with the balance of the purchase price being provided by MotoNovo under a PCP agreement. The car was three years old and had covered 58,912 miles when the agreement started. The agreement was for 49 months, and the cash price of the car was £14,898.

In mid-May 2023, the car lost power and the engine management light (EML) came on. Mr G got in touch with M, as he'd taken out a warranty with them, and they asked him to arrange a diagnostic test at a registered garage of his choice and send them evidence of the test. Having done this, Mr G was finding it difficult to hold M accountable, so he contacted MotoNovo at the end of May 2023 to raise a complaint about the quality of the car.

MotoNovo arranged for an independent inspection to be undertaken on the car. The car had covered 67,832 miles at that point – Mr G had covered approximately 8,900 miles in the car since acquiring it five months previously. The report concluded an engine misfire had first occurred in mid-May 2023, and the car had covered approximately 67,700 miles when the misfire happened. Because of this, the report concluded the fault wouldn't have been present or developing at the point of supply. MotoNovo didn't uphold Mr G's complaint.

Mr G brought his complaint to our service. Our investigator didn't uphold it. He said the report confirmed the car was of satisfactory quality when it was supplied to Mr G, and the misfire had happened after five months, and several thousand miles had been covered in the car by Mr G at that point.

Mr G didn't accept this. He said that the car had been in his possession for less than six months, and the engine shouldn't be misfiring within that timeframe.

As Mr G didn't agree, it's been passed to me to decide.

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 considering what is fair and reasonable, I'm required to take into account: relevant law and regulations, relevant regulatory rules, guidance and standards and codes of practice.

As the PCP agreement entered by Mr G is regulated consumer credit agreement this service can consider complaints relating to it. MotoNovo are the supplier of the goods under this type of agreement and are responsible for a complaint about their quality.

The Consumer Rights Act 2015 (CRA) covers agreements like the one Mr G entered. Because MotoNovo supplied the car under a PCP agreement, there's an implied term that it is of satisfactory quality at the point of supply. Cars are of a satisfactory quality if they are of a standard that a reasonable person would find acceptable, taking into account factors such as – amongst other things – the age and mileage of the car and the price paid.

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

But, on the other hand, satisfactory quality also covers durability. For cars, this means the components must last a reasonable amount of time. Of course, durability will depend on various factors. In Mr G's case, the car was used and had covered 58,912 miles when he acquired it. So, I'd have different expectations of it compared to a brand-new car. Having said that, the car's condition should have met the standard a reasonable person would consider satisfactory, given its age, mileage, and price.

Our investigator has explained that he thinks the car was of satisfactory quality when it was supplied to Mr G. I agree in this case. There is no doubt the car has a serious fault – the inspections carried out confirm that to be the case. But I'm not persuaded, from what I've seen, that I can conclude the car was faulty when it was supplied to Mr G. I'll explain why.

Mr G brought the problem with the car to MotoNovo's attention in May 2023, five months after he'd been supplied with it. So, I need to consider if MotoNovo have done what I'd expect them to have done once they were aware there was a problem with the car.

The CRA explains that where goods are found not to have conformed to the contract within the first six months, it is presumed the goods did not conform to the contract at the point of supply. Unless the supplier, MotoNovo in this case, can prove otherwise. In Mr G's case, it was within six months when he first informed MotoNovo of the fault with the car. MotoNovo agreed to arrange an independent inspection of the car to determine when the fault with the car had occurred. This is what I'd expect MotoNovo to have done in this case.

This inspection took place in June 2023, and the car had covered 67,832 miles – just over 8,900 miles since Mr G acquired it.

The independent inspection is, in my opinion, the most persuasive piece of evidence in this case. It was a physical inspection of the car by a qualified motor technician. This inspection concluded that the car was of satisfactory quality when it was supplied to Mr G.

The independent inspection was asked to look into the EML light being on and identify the reasons why. The technician conducted a diagnostic test, which reported three active faults. All these faults focussed on an engine misfire, and a specific problem with one of the cylinders. More in-depth diagnostics on the faulty cylinder confirmed it had started to misfire in mid-May 2023, and the car had covered 67,736 miles when the misfire first happened.

The report concluded that, in the technician's opinion, the fault with the car wouldn't have been present or developing at the point of its supply to Mr G, when the length of time he'd had the car and the mileage he'd covered prior to the fault appearing were taken into consideration. He'd had the car for five months and had covered approximately 8,800 miles when the misfire first happened.

As mentioned previously, the car Mr G acquired was three years old but had covered approximately 58,900 miles when it was supplied to him. It's fair to say the car was far from new. This means that the standard a reasonable person might expect from it would be lower than for a car that had covered fewer miles. Acquiring a used car carries some inherent risks, not least of which is that sooner or later items, or components of the car, will need repair or replacement.

Mr G had the car for five months and the car had covered approximately 8,900 miles when the independent report was carried out. As previously stated, I'm satisfied that a reasonable person would expect to have to repair or replace some wear and tear components on a used car sooner than they would on a newer one. In Mr G's case it seems the requirement to replace the parts now found to be faulty has come sooner than he was expecting, but I'm not persuaded that means the car wasn't of satisfactory quality when it was supplied to him. I'm more persuaded that the work needed now to repair the car needs doing as a result of wear and tear.

Mr G hasn't provided any evidence to suggest the independent report and its findings are inaccurate, and the car had a present or developing fault with the engine when it was supplied to him. And within his submissions to our service he has accepted that he knows the fault with the engine wasn't present when he acquired the car in December 2022. So, it follows that I'm satisfied the report shows the car was of satisfactory quality when it was supplied to Mr G – and I'm satisfied MotoNovo have acted fairly by not taking his complaint about the quality of the car any further.

I know Mr G also has concerns about the storage costs being incurred, but a new complaint has been raised by MotoNovo for this. I won't comment on any storage charges in this decision.

I know this decision will come as a disappointment to Mr G, and he has a car that requires significant work at cost to be carried out to make it roadworthy. But I've explained above why I can't hold MotoNovo responsible for that. I won't be asking them to do anything more in relation to the satisfactory quality of the car.

My final decision

For the reasons above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 3 December 2024.

Kevin Parmenter
Ombudsman