

## **The complaint**

Mr M complains about the quality of a used car he acquired through a hire purchase agreement with MotoNovo Finance Limited ('MotoNovo'). He says the car isn't of good quality as it had numerous faults when he acquired it, and these haven't been properly repaired.

## **What happened**

The car Mr M acquired in November 2023 was used. It was first registered in March 2017 and so it was about six and a half years old, it had 54,639 miles on the clock. The cash price of the vehicle was £15,799.

Mr M paid £11,000 as a deposit meaning £4,799 was financed. The agreement was to be repaid through 47 monthly instalments of £130.34 followed by a final instalment of £131.54. If Mr M made the repayments in line with the credit agreement, he would need to repay a total of £17,257.32.

Below is a summary of the issues complained about by Mr M and the investigation and repair work carried out by the dealership. This is based on the information provided by Mr M, MotoNovo and the garages that have carried out the work.

Mr M says an engine management light ('EML') was visible on the first day he drove the car which was the 6 November 2023. It was collected by the garage on the same day and it said that a diesel particulate filter ('DPF'), was causing the problem. This was regenerated and returned to Mr M on the same day.

The EML appeared again on the 10 November 2023 and Mr M was given instructions about how to rectify the DPF. Mr M followed the steps he was given but he couldn't get the light to go away. He took the car to an independent garage as he was concerned that the dealership would act 'superficially' again.

Mr M said that the independent garage identified a number of problems which were contaminated brake fluid, some tyre pressure issues, the DPF sensor issues, the rear window would not close properly, the brakes had a 'small lip', and a timing belt change was overdue.

Mr M also said that he experienced a buzzing/juddering and or rattling on acceleration which possibly came from the clutch. And there was a 'squealing' from the brakes.

Mr M told MotoNovo about this and it agreed to look at the car again. It went back to the dealership for repairs on 17 November 2023 and it was there for four weeks. Mr M was provided with a courtesy car over this time.

Mr M received the car back and I understand the DPF and related sensor problems, and the window problems, were remedied. But Mr M said the car still juddered or buzzed at times and the brakes were still noisy even though the brake fluid had been changed. He also

thought there was still a problem with the clutch. Four tyres had been replaced as Mr M said this was agreed at the time of sale.

Mr M said the car was not clean when he collected it and there was some damage to the wheels and paintwork. A wiper blade was split which Mr M replaced at his own cost.

Mr M has complained to MotoNovo about the problems he has had with the car alongside these issues being looked at. But as far as I can see MotoNovo hasn't issued a final response.

I can see that as part of this correspondence MotoNovo doesn't agree that the timing belt needs changing as the current manufacturer recommended time to do this is after the car has travelled 140,000 miles (with a check and 90,000 miles) and this is not related to time.

Mr M doesn't think this is right as the manufacturer's guidance changed in July 2023 and up to this point it said the timing belt should have been changed after five years. He said the car was over five years old when the previous timing belt change guidance was in force and so the timing belt should have been changed. He had been misled by the dealership. Had he been fully informed about this he would have renegotiated the purchase price.

Mr M has paid for a timing belt change as he thought this needed doing. He has provided receipts for this work.

Mr M has also had the car looked at by an independent reporting company. The report dated 28 February 2024 noted that the car was overall in very good condition. But that it did have some problems that Mr M had already complained about, these were:

- There was a judder from the drive train when taking up drive and when coasting.
- The brakes were still squealing.
- There was a light vibration on idle.

It said it was likely that these faults were present at the time of purchase but that the vehicle had been durable. It recommended further investigation and repairs in respect of the judder and vibration and the braking system.

Our Investigator upheld Mr M's complaint. She said that she thought the car had faults when it was sold to Mr M and so it was not of satisfactory quality. These were the DPF issues, the window and the brake problems. She also noted the report said that the car 'juddered' when it was taking up drive and there was a light vibration when idling. She recommended that MotoNovo repair these faults as Mr M didn't want to reject the car, and pay compensation for the inconvenience all of this had caused him.

She didn't think that MotoNovo should pay compensation for the timing belt change and for any damage that may have been caused by the garage (the paint and wheel issues). These should be raised with the garage separately. I note the garage has agreed to repair these.

Mr M didn't agree with the Investigator. He said that:

- He had been without the car for four weeks and the compensation should reflect this.
- The timing belt was very worn when it was changed and so MotoNovo should also pay for this
- A £39.99 health check he paid for was already refunded but he did pay £79 for a diagnostic.

- The £250 compensation doesn't reflect the inconvenience that the car problems have caused, he thought this should be £1,000.

There was some further correspondence and our Investigator said that it wasn't for the Financial Ombudsman to say if the dealership had complied with a manufacturer's recommendation about the timing belt. But she wasn't persuaded that the timing belt was faulty. She didn't think that MotoNovo should pay for the diagnostic and that the £250 distress and inconvenience payment was reasonable.

Mr M still didn't agree and so this matter has been passed to me to make a final decision.

MotoNovo has accepted what the investigator said.

### **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.

In considering what is fair and reasonable, I need to have regard to the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and (where appropriate) what I consider to have been good industry practice at the relevant time.

The agreement in this case is a regulated hire purchase – 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 ('CRA') 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 all the other relevant circumstances. So it seems likely that in a case involving a car, the other relevant circumstances a court would take into account might include things like the age and mileage at the time of sale and the car's history.

The CRA 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 goods.

This car was about six and a half years old when Mr M acquired it and it had travelled around 55,000 miles. The cash price was about £16,000. I think a reasonable person would accept that such a vehicle would probably have some parts that are worn and would need replacing sooner or later – which is reflected in the lower price paid in comparison to a new vehicle.

But there's also a reasonable expectation that a vehicle will be relatively durable - taking into account its age, price and mileage at the outset. So even though the vehicle wasn't new Mr M should have been able to use it for a reasonable period of time before it needed significant work.

### **Was there a fault with the car**

As I've outlined above the car that MotoNovo supplied to Mr M had a number of faults at supply. Some of these have been repaired. But both Mr M and the company that performed

the independent report says that there are ongoing problems with the braking system and some noise and or juddering from the drivetrain and or engine. I don't think it's in dispute that the car had faults when it was supplied to Mr M.

### **Was the car of satisfactory quality bearing in mind the faults**

Our Investigator said that the car wasn't of satisfactory quality due to these faults. MotoNovo has agreed with our Investigator when she said this. So, again, I don't think this is in dispute and I agree that the car wasn't of satisfactory quality.

I've gone on to consider whether MotoNovo has done enough to put these problems right, and if it hasn't what else it should do. I've looked at each of the issues that Mr M has raised about the car and concentrated on the issues that remain unresolved.

I understand the DPF and sensor issues, and the window problems, were repaired satisfactorily. No issues were raised about these on the independent report. So, I don't need to make a finding about these problems.

It's established that the car sustained some damage to the wheels and the paintwork when it was at the garage, and it may not have been clean when it was returned. The garage has offered to put these right and this is an issue that Mr M should take up with the garage if he has not already done so.

The independent report showed that the car has some issues with the braking system. And the drivetrain and/or engine makes a juddering and or buzzing noise under some circumstances. The independent report recognised that these issues were also likely present at the time of sale.

Our Investigator said that these problems should be looked at by MotoNovo and repaired. And Mr M should receive back 10% of the finance payments he has paid as his use of the car has been impaired due to these problems. No party to the complaint has disagreed with this, and I think this is a fair way to resolve this part of Mr M's complaint.

I have looked at all of the information that has been supplied about the timing belt. I appreciate that it may have been the manufacturer's policy for the timing belt to be replaced after five years before 2023. But the fact that it wasn't changed at this time doesn't mean that the car wasn't of satisfactory quality and it's worth noting that it should now be checked after 90,000 miles and changed after 140,000 miles. But the car had travelled significantly less miles than both of these. So, when the car was sold to Mr M it would have been right to say, if this was discussed, that the timing belt didn't need looking at under the manufacturer's guidelines.

And whilst Mr M has said the timing belt was worn when it was changed there isn't anything to say it was faulty or needed changing imminently. So, I don't think the car wasn't of satisfactory quality for this reason. I don't think that MotoNovo should pay for the timing belt.

Mr M had a vehicle health check completed on 13 November 2023 which he paid £39.99 for. MotoNovo has refunded this to him. He's also shown that he paid for some diagnostics in January 2024. I don't think that MotoNovo needs to pay for these diagnostics. It's not clear that these were needed.

I do note that Mr M was inconvenienced on several occasions by having to take the car back and forth to the garage. He was, it seems, kept mobile in a courtesy car, but ultimately that wasn't the car he was paying for. What's more, it seems his car was with the dealership for around a month.

I can also imagine it would have been frustrating and stressful for the problems to keep re-occurring as they did. However, MotoNovo has tried to fix the issues with the car and it has agreed to do this going forward. So, I don't think it should pay the £1,000 compensation that Mr M thinks is reasonable. I think the £250 suggested by our Investigator for the distress and inconvenience he experienced is fair.

### **Putting things right**

Having thought about everything above along with what is fair and reasonable in the circumstances I uphold this complaint and direct MotoNovo to:

- Investigate and repair the car in respect of the judder / buzzing and the brakes – these should be carried out within a reasonable timescale and at no cost to Mr M.
- Pay a refund of 10% of the finance payments Mr M has made to cover any loss of use or impaired use, of the car because of the inherent quality issues.
- Pay a refund of £39.99 for the vehicle health check completed on 13 November 2024.
- Pay 8% simple yearly interest on all refunded amounts from the date of payment until the date of settlement.
- Pay £250 for any distress or inconvenience that's been caused due to the faulty goods.
- Remove any adverse information from Mr M's customer's credit file in relation to the agreement.

### **My final decision**

For the reasons I've explained, I uphold Mr M's complaint.

MotoNovo Finance Limited should put things right by doing what I've said above. If it has already paid for or completed parts of the above compensation it does not need to do them again.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 3 January 2025.

Andy Burlinson  
**Ombudsman**