

The complaint

Miss C complains that MotoNovo Finance Limited (“MotoNovo”) supplied her with a car that wasn’t of satisfactory quality.

What happened

In July 2023, Miss C acquired a used car using a hire purchase agreement with MotoNovo. The car was over six years old, the cash price of the car recorded on the agreement was £14,990, the agreement was for 61 months, made up of 59 regular, monthly repayments of £360.77, followed by a final payment of £361.77, which included a £1 option to purchase fee.

The mileage recorded on the agreement was 70,000 miles. The deposit recorded on the agreement was £-682.77. MotoNovo explained this was due to there being a negative equity which resulted from a settlement amount of a previous agreement Miss C held in relation to a car she part exchanged. The settlement amount for the previous agreement was higher than the value the supplying dealership gave for her previous car which was offered in part exchange.

In August 2023, Miss C noticed the engine management light (“EML”) appear on her car’s dashboard. The car was taken to a third-party garage where a handwritten invoice was provided once they looked at the car. In summary, it said that they carried out a diagnostic check which identified several faults relating to the car’s turbo. These codes were reset and cleared.

Shortly after the fault codes were cleared, Miss C says the car experienced loss of power, and did so intermittently on a regular basis.

Miss C said that she had returned the car to the supplying dealership on two occasions to have it repaired and there were still issues with it. So, she then wished to reject the car.

She said she was provided with a courtesy car during both repairs, but she was given a manual car, rather than an automatic, like the car she acquired. She said the manual car flared up a condition she had with her left knee. Miss C also said the courtesy car was much smaller than the one she acquired which caused her problems when transporting items around.

In late November 2023, Miss C replaced two tyres on the car at a cost of £300.

Miss C complained to MotoNovo in December 2023 and they instructed an independent engineers report to be completed on the car to inspect it of any issues. The report, in summary, considered the faults to have been present at the point of supply. It also said there had been an unsuccessful repair.

In January 2024, MotoNovo upheld Miss C’s complaint and agreed to the rejection of the car. Among other things, MotoNovo offered to:

1. End the agreement following a rejection of the car.

2. Collect the car.
3. Reimburse £300 towards the cost Miss C incurred in replacing tyres on the car.
4. Pay £200 as an apology for the inconvenience caused by this complaint.

MotoNovo also explained that Miss C had made five monthly payments up to date. They also said the car had been driven 4,804 miles since it was acquired. They said their fair usage mileage fee was equal to one monthly payment for every 1,000 miles the car had travelled since the point of supply. So, they would retain four of Miss C's monthly payments she made. MotoNovo also said they would retain the fifth monthly payment to partially cover the negative equity on the agreement, and the remaining deficit of £321.80 they said they would waive as a gesture of goodwill.

Miss C wished to progress with rejecting the car, so it was collected in January 2024 and the agreement ended.

Miss C was unhappy with how she was treated by MotoNovo and with the handling of her complaint, and so referred it to our service to look into.

Miss C confirmed to our service that she received a courtesy car during the two times the supplying dealership attempted to repair the car but didn't receive one in December 2023 up until when the car was returned and the agreement ended. Miss C also told our service how the complaint has impacted her mental health, which has resulted in her taking medication to support her.

Our investigator upheld Miss C's complaint. In summary, he explained that he thought there was a fault with the car which made it of unsatisfactory quality, based on the agreement being unwound already. He thought MotoNovo's handling of the complaint was fair and in line with what he would expect them to do. The investigator explained why he thought it was fair for MotoNovo to retain Miss C's monthly repayments made. The investigator went on to say that he thought Miss C should be refunded 10% of monthly repayments for the period of time she was given a courtesy car, due to it not being a suitable replacement. And the investigator concluded that MotoNovo should pay Miss C a further £100 for the inconvenience caused by this complaint.

Miss C disagreed with the investigator's outcome. Among other things, she said that this complaint has led to her having to pay for medication every month and she has taken part in therapy. Miss C also explained that from when she complained up until when the car was returned, she had to rely on lifts from family and friends, which she believes cost her more in fuel to cover the extra journeys people had to make.

MotoNovo responded and said they agreed with the investigator's findings.

As Miss C disagreed with the investigator, the complaint has 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.

Having done so, I'm upholding this complaint and I'll explain why below.

Miss C complains about a car supplied to her under a hire purchase agreement. Entering into consumer credit contracts such as this is a regulated activity, so I'm satisfied I can consider Miss C's complaint about MotoNovo.

When considering what's fair and reasonable, I take into account relevant law and regulations. The Consumer Rights Act 2015 ("CRA") is relevant to this complaint. The CRA explains under a contract to supply goods, the supplier – MotoNovo here – has a responsibility to make sure goods are of satisfactory quality. Satisfactory quality is what a reasonable person would expect – taking into account any relevant factors.

I would consider relevant factors here, amongst others, to include the car's age, price, mileage and description. So, it's important to note that the car Miss C acquired was used, over six years old, had been driven around 70,000 miles and cost slightly under £15,000. I think a reasonable person would accept that it would not be in the same condition as a new car and was likely to have some parts that are worn.

In this instance, MotoNovo has made an offer they think is fair to put things right. To consider the offer made, I first need to decide whether the car was of satisfactory quality at the point of supply. And in order to do that, I need to consider whether the car had developed a fault.

Had the car developed a fault?

I don't think it is in dispute here that the car developed a fault. I say this because MotoNovo has accepted rejection of the car. However, for completeness, I have noted that Miss C experienced loss of power on occasions and also an EML appeared on the car's dashboard in August 2023.

The car was taken to a third-party garage in August 2023 where a handwritten invoice was provided once they looked at the car. It said:

"To carry out diagnostic due to loss of power".

It then listed several fault codes which related to the turbo. It then said:

"Clear codes, customer monitor if fault returns".

When Miss C complained to MotoNovo, an independent inspection was completed on the car in December 2023. In the report that was completed, it said:

"We attempted to start the vehicle from cold and noted that the battery was flat. We used a jump pack and the engine started readily. The engine management light was illuminated on the dashboard..."

We commenced with a 5-mile road test at speeds of up to 50mph. During the road test we noted that the vehicle was very under-powered and appeared to be in limp mode. The engine management light remained illuminated over the duration of our road test...

We do consider the faults to be present at purchase...

There is evidence of previous unsuccessful repairs...

The faults with the vehicle were present and developing at the point of purchase...

We would conclude that we did observe faults with the vehicle in the form of fault codes stored in the ECU, which would be consistent with the vehicle being in limp mode."

Considering the above, and also that MotoNovo are also in agreement, I'm satisfied there is a fault with the car, specifically causing it to lose power.

Was the car of satisfactory quality?

Considering the fault presented itself shortly after the car was acquired, and the independent report says they believed the fault to be a pre-existing condition, I'm satisfied the fault was likely present or developing at the point of supply.

Remedies under the CRA

What I now need to consider is whether the offer MotoNovo made to Miss C was fair and reasonable to put things right, or if it needs to do anything further.

One of the remedies available to Miss C under the CRA is a final right to reject the car if the opportunity was given for the car to be repaired. If the opportunity to repair the car was given and the repair failed to remedy the fault, it would be reasonable to allow the car to be rejected.

In this instance, Miss C says she gave the supplying dealership two opportunities to repair the car, but issues with it persisted (as shown by the findings of the independent report). I have noted that MotoNovo enquired with the supplying dealership for confirmation as to what repairs were carried out, if any, but they weren't forthcoming with the information to MotoNovo and it contradicted what Miss C had said to them.

But, in any event, MotoNovo accepted rejection of the car and believed the supplying dealership had an opportunity to repair the car already. Given the circumstances, I think rejection is a fair outcome.

Usage of the car and monthly repayments made

I have noted that MotoNovo believes it is reasonable to retain the monthly repayments that have been made towards the car by Miss C.

MotoNovo said five monthly payments were made. They also said the car had been driven 4,804 miles since it was acquired. They said their fair usage mileage fee is equal to one monthly payment for every 1,000 miles the car had travelled since the point of supply. So, they retained four monthly payments Miss C made. MotoNovo also said they retained the fifth monthly payment made to partially cover the negative equity on the agreement, and the remaining deficit of £321.80 would be waived as a gesture of goodwill.

I am unsure what fair usage mileage fee MotoNovo were referring to. I have seen the agreement Miss C signed and there is no reference to a mileage or excess mileage fee, nor is there any reference to an annual permitted mileage or maximum permitted mileage set under the agreement.

In addition, I have noted the agreement recorded the car's mileage at 70,000 miles. I think it is unlikely the mileage of the car at the point of supply was exactly 70,000 miles, but rather an estimate of the mileage at the time. So, I'm unsure what the exact mileage of the car was at the point of supply.

Miss C has also said that some of the miles the car was driven since the point of supply was to the dealership to be repaired. And she believes the supplying dealership would have driven some further miles to investigate and repair the car.

I have considered these points above, and having said that, I still think it is fair for MotoNovo to retain the monthly repayments made during the time Miss C had the car. While I accept

we can't be sure exactly how many miles the car has been driven since the point of supply, I think it is still likely it has been driven for several thousand miles before it was returned to MotoNovo. So, I think it is fair to say that Miss C still had use of the car, even while there were issues with it. So, I don't think it would be fair for MotoNovo to reimburse these monthly repayments.

I also think it is fair for MotoNovo to retain the final monthly payment to partially cover the negative equity that was on the agreement as this would have needed to have been settled for the agreement to end. And I have noted they have waived the deficit as a gesture of goodwill.

The use of the courtesy car

Miss C also explained that during the initial repairs to the car which failed, she was given a courtesy car. I'm mindful that the car given wasn't a like-for-like replacement, and was a manual, rather than an automatic, like the car she acquired. She said the manual car flared up a condition she had with her left knee. Miss C also said the car was much smaller than the one she acquired which caused her problems when transporting items around.

Considering the above, I think it is fair for MotoNovo to reimburse Miss C 10% of her monthly repayments for the time she was given a courtesy car whilst her car was being repaired.

Our service asked Miss C for the dates she was supplied a courtesy car, but understandably, given the time that has passed, Miss C couldn't recall the exact dates. But she did say she had supplied the information to MotoNovo when they had asked nearer the time. I have seen an email chain involving MotoNovo, which said:

"...The vehicle appears to have been collected from the customer on 28th August 2023, due to an EML issue. Retuned [sic] on 5th September 2023; on the understanding that the EML issue was fixed. However, as there were further faults with the EML; the vehicle was collected again on 7th September 2023; and returned on 14th September 2023. During these times, the customer was also provided a courtesy car..."

Considering the above, I'm satisfied 10% of Miss C's monthly repayments should be reimbursed in between the dates above.

Consequential losses

Miss C said she incurred costs when she relied on her friends and family to get around. Although I haven't been supplied with receipts or evidence of costs incurred, Miss C has explained the costs resulted, for example, from paying for fuel for the additional mileage friends and family had to travel to collect her or drop her off to destinations.

As I explained, I haven't been provided with evidence of these costs incurred. But even if Miss C did provide them, I don't think MotoNovo needs to do anything further. I say this because, normally, I might have asked MotoNovo to refund the costs incurred or refund a proportion of the monthly payment for Miss C not being kept mobile in December 2023. But I'm mindful of few things which are worth pointing out. Firstly, once MotoNovo received the independent report which confirmed the faults with the car, they also confirmed they could authorise a contribution towards a courtesy car for seven days. Secondly, I'm mindful that MotoNovo retained the December 2023 monthly payment to partially cover the negative equity on the agreement. They then waived the remaining amount, which was a significant sum of money. So, I don't think it would be fair to ask them to refund any other costs that Miss C may have incurred, considering they waived an amount which is likely higher than the costs Miss C incurred, if any.

Customer service

Miss C was unhappy in the way MotoNovo handled her complaint when she got in touch with them. She referred to representatives she spoke to at MotoNovo who she felt were unhelpful and at times rude and dismissive to her. She also says she was assured her complaint would be resolved before January 2024.

MotoNovo have supplied several calls between Miss C and themselves. Having listened to them, I didn't hear instances where MotoNovo were rude or dismissive to Miss C. I appreciate Miss C says she had panic attacks and sleeping issues as a result of the calls she had. And I am sorry for how she felt and the anxiety she says she experienced. But, I don't think MotoNovo offered poor service or were rude to her.

I can also see from MotoNovo's final response that the case handler who was assigned Miss C's complaint confirmed to her it was unlikely her complaint would be resolved before January 2024. I accept that previous call handlers at MotoNovo may have assured Miss C the complaint could be resolved quickly, but I can see timescales were quickly updated when her case handler at MotoNovo was assigned her complaint and got in touch with her.

Having said that, MotoNovo's case notes for this complaint which they have supplied our service says that they paid Miss C £30, as they didn't feel they provided her with the right level of customer service. So, I'm satisfied they don't need to do anything further in relation to the service they provided when handling Miss C's complaint.

Distress and inconvenience

I think it must have been frustrating and inconvenient for Miss C to have to deal with the issues the car had. I understand Miss C was due to start a new job in January 2024 and required a working car to travel to work, so the frustration of not knowing the status of the car and the agreement must have been difficult. Miss C has explained how she had to rely on family and friends to support her when her car wasn't working.

Miss C also explains how the problems with the car exacerbated her mental health, which she says required her to take medication and undergo therapy. With all this in mind, I think MotoNovo should also pay Miss C a slightly higher amount than what they said they would pay, of an additional £100 for the distress and inconvenience caused. I think £300 in total more fairly reflects the level of distress and inconvenience Miss C has experienced because of the above.

My final decision

For the reasons I've explained, I uphold this complaint and I instruct MotoNovo Finance Limited to put things right by doing the following:

- End the agreement with nothing further to pay (if this has not been done already).
- Collect the car (if this has not been done already) at no further cost to Miss C.
- Reimburse Miss C the cost of £300 she paid in having two tyres replaced on 29 November 2023 (if this has not been done already). *
- Pay Miss C 10% of monthly repayments made towards the agreement for the time she had a courtesy car. The dates Miss C was provided a courtesy car were:
 - Between 28 August 2023 to 5 September 2023. *
 - Between 7 September 2023 to 14 September 2023. *
- Pay Miss C £300 in total to reflect the distress and inconvenience caused.

* These amounts should have 8% simple yearly interest added from the time of payment to the time of reimbursement. If MotoNovo considers that it's required by HM Revenue & Customs to withhold income tax from the interest, it should tell Miss C how much it's taken off. It should also give Miss C a tax deduction certificate if they ask for one, so they can reclaim the tax from HM Revenue and Customs if appropriate.

If MotoNovo has already actioned any of the steps above, then they don't need to do anything further. And if MotoNovo has already given compensation in relation to this specific complaint, then the final amount should be less the amount already given.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 10 March 2025.

Ronesh Amin
Ombudsman