

The complaint

Mr C complains about the quality of the car he was supplied by MotoNovo Finance Limited ("Motonovo").

What happened

In March 2022, Mr C was supplied with a used car by Motonovo through a hire purchase agreement. The car was around five and a half years old at supply and had covered around 44,000 miles when supplied. Over the following twelve months, the car had several issues and was returned to the dealership for repairs in May 2022 and October 2022. Mr C has told us he also had problems in December 2022 and told the dealership that the car was making a noise when travelling at high speeds.

In February 2023, the car broke down and was seen roadside by a breakdown service. They provided a report which says there was a fault code relating to the Mass or volume airflow circuit malfunctioning, and there was some black smoke seen from the engine bay. It then says that a 10-mile road test was carried out, with no smoke evident and it was safe to drive but recommended contacting a dealer for a full inspection. The mileage at this point was a little over 57,000 miles.

I can then see an MOT was passed in March 2023 at a little over 58,000 miles. After this, we've been provided with a job sheet dated April 2023 saying there was a fault with the air flow meter, but that this was repaired at no cost to Mr C.

Then in July 2023, the car has had further problems, and we've been supplied with an estimate/quote from a main dealer showing the cost of a replacement engine at almost £28,000. No current mileage is listed on this quote, and no detail about what's happened.

Mr C complained to Motonovo in September 2023 saying he wished to reject the car. Having not received a response, he escalated the complaint to our service in November 2023. We have been provided with an emailed copy of a final response letter (FRL) from Motonovo which is not dated but does talk about a phone call held with Mr C in January 2024 about his complaint.

The FRL doesn't uphold his complaint and says they confirm what they told him on the phone, that he needs to provide an independent report to explain what is wrong with the car, and whether the fault was present or developing at the point of sale. It explains that this is because he's had the car for more than six months when this issue has occurred.

An investigator here investigated the complaint and did not uphold it. In their first response in May 2024, they explained that they accepted the car had some faults originally, and could see these had been repaired, but had seen no evidence of what was wrong now, and whether it might have been present or developing when the car was supplied. Mr C resent some of his evidence, and the investigator updated their opinion in July 2024 but didn't change their view, still not upholding the complaint. They explained they could see there were emails about a fault in July 2023, and an estimate to replace the engine, but no evidence about what the current faults actually were, and whether the issues were present

or developing at the point of sale.

Unhappy with this, Mr C asked for a final decision, and the case has been passed to me for that 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.

Having done so, I've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome. Where evidence has been incomplete or contradictory, I've reached my view on the balance of probabilities – what I think is most likely to have happened given the available evidence and wider circumstances.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Mr C was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we're able to investigate complaints about it.

The Consumer Rights Act 2015 ('CRA') says, amongst other things, that the car should've been of a satisfactory quality when supplied. And if it wasn't, as the supplier of goods, Motonovo are responsible. What's satisfactory is determined by things such as what a reasonable person would consider satisfactory given the price, description, and other relevant circumstances. In a case like this, this would include things like the age and mileage at the time of sale, and the vehicle's history and its durability. Durability means that the components of the car must last a reasonable amount of time.

The CRA also implies that goods must conform to contract within the first six months. So, where a fault is identified within the first six months, it's assumed the fault was present when the car was supplied, unless Motonovo can show otherwise. But, where a fault is identified after the first six months, the CRA implies that it's for Mr C to show it was present when the car was supplied.

So, if I thought the car was faulty when Mr C took possession of it, or that the car wasn't sufficiently durable, and this made the car not of a satisfactory quality, it'd be fair and reasonable to ask Motonovo to put this right.

Whilst I empathise with Mr C and the problems he's had with the car, I'm not persuaded that he's shown what problems the car currently has, or whether they were present or developing when the car was supplied.

In their FRL, Motonovo explained to Mr C that he'd need to obtain proof in the form of an independent report, to explain what the faults are at present, and to confirm whether the faults were present or developing when the car was supplied.

Mr C has provided an estimate from a main dealership which details a huge amount of work and parts required to replace the engine. As mentioned, this totals almost £28,000. But it doesn't say what's actually wrong with the car, or what's happened to reach this point. Similarly, we've been provided lots of information about previous problems, and repair invoices we are told have been carried out under warranty. But there's no proof that any of these repairs affected the satisfactory quality of the car, and they've all apparently been repaired. There's no evidence that the repairs have failed, and a car that has covered

around 60,000 miles can always need some repairs. This in itself wouldn't mean Mr C should be able to reject the car.

It would seem that a more significant problem has now occurred, if the car needs a replacement engine. But the fact there seems to be a problem now doesn't prove the car was not of satisfactory quality when supplied. If the engine had needed replacing when the car was supplied, Mr C would not have been able to cover over 16,000 miles before complaining.

There are many reasons why an engine might need to be replaced. To uphold Mr C's complaint, I'd need proof of one of the following two things. Firstly, that the car hasn't proved durable. This means that the engine/parts of the car have worn out too quickly, for reasons not related to Mr C's ownership/driving of the car. Or secondly, I'd need proof that there is an inherent fault/issue with the car, which has been present or developing since the car was supplied, that now requires the engine to be replaced, making the car of unsatisfactory quality.

Mr C has been asked for this proof but has not supplied it. Without any evidence detailing what's wrong with the car, and giving an expert opinion on why its likely to have occurred, there is no way I can know whether this problem is Motonovo's responsibility to fix, or not. The CRA says that in a situation like this, where something happens more than six months after the car was supplied, it falls on the consumer to prove the issue was present or developing when the car was supplied. When the fault has occurred, it was around 16 months after the car was supplied to Mr C.

Mr C has provided hundreds of pages of email testimony of conversations between himself and the dealership, but I'm afraid this isn't proof of the problem the car is having or its causes. I've thought about whether Mr C was given the information about what sort of proof he needed to supply and am satisfied that he was. I can see that it was explained clearly in the FRL Motonovo sent to Mr C about his complaint. This also gave sources he could contact to obtain this kind of evidence and confirmed that if the report produced showed this issue was Motonovo's responsibility to fix, they would also reimburse him reasonable costs for obtaining that report.

Unfortunately, this hasn't happened. The fact that something is now wrong with the car doesn't mean its Motonovo's responsibility to repair it or to take the car back. The law says that if the problem was present or developing when the car was supplied, it would be Motonovo's responsibility. Or if the car hasn't proven durable. But without evidence of what's even wrong with the car, I can't be satisfied that either of these things has occurred.

Mr C was correctly told that because he'd had the car for longer than six months when he raised his concerns that the engine has failed, the relevant law (the CRA) says that it's his responsibility to prove what's happened, and why. He was given the details of the evidence he would need to supply to prove this, and where he could get it from, but he hasn't done so. As such, I can't agree that Motonovo are responsible for what's happened, and I won't be asking them to do any more.

My final decision

I am not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 23 April 2025.

Paul Cronin
Ombudsman