

## **The complaint**

Ms M complains about the quality of a car she has been financing through an agreement with MotoNovo Finance Limited, trading as MotoNovo Finance (MotoNovo).

## **What happened**

I issued a provisional decision on this complaint early this month. An extract from that provisional decision is set out below.

*Ms M took receipt of a used car in May 2023. She financed the deal through an agreement with MotoNovo. At the point of supply the car was about two and a half years old and had already completed 28,263 miles.*

*The car broke down about eight weeks later with a battery related issue. Breakdown services managed to get it going but a few months later the car broke down again. It was recovered to a main dealership who noted that there was a high voltage isolation fault. On further analysis they identified damage to the battery casement and undertrays.*

*MotoNovo commissioned a couple of independent inspections in order to ascertain if the fault could fairly be considered their responsibility. Although the final report suggested it was unlikely that the fault had been present when Ms M took receipt of the car (the point at which MotoNovo were responsible for its quality) MotoNovo made a decision to take the car back, unwind the agreement with Ms M, refund some costs Ms M had incurred to keep mobile, refund five monthly instalments in respect of the loss of use Ms M had experienced, refund the deposit Ms M had paid and pay her £300 in respect of the distress and inconvenience caused.*

*Our investigator didn't think there was evidence the car was of unsatisfactory quality. So, in the circumstances, he thought MotoNovo's offer was a fair one.*

*Ms M disagreed. She didn't think the redress provided by MotoNovo was sufficient. Her complaint has been referred to me, an ombudsman, to make a decision.*

## **What I've provisionally 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.*

*I don't agree with our investigator's reasoning. I think this car wasn't of satisfactory quality when it was supplied. I do, however, think that MotoNovo have been reasonable here. I'll explain why.*

*Where the information I've got is incomplete, unclear, or contradictory, as some of it is here, I have to base my decision on the balance of probabilities.*

*I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point, it's not because I've failed to take it on*



*board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.*

*Ms M acquired her car under a hire purchase agreement. This is a regulated consumer credit agreement and as a result our service is able to look into complaints about it.*

*The Consumer Rights Act (2015) is the relevant legislation. It says that the car should have been of satisfactory quality when supplied. If it wasn't then MotoNovo, who are also the supplier of the car, are responsible. The relevant law also says the quality of goods is satisfactory if they 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. The relevant legislation also asks us to consider whether goods have been durable when we think about whether they have been of satisfactory quality.*

*In a case like this which involves a car the other relevant circumstances would include things like the age and mileage at the time the car was supplied to Ms M. The car here was about two and a half years old and had already completed 28,263 miles.*

*An old car with a high mileage will not be expected to be as good as a newer car with a low mileage, but it should still be fit for use on the road, in a condition that reflects its age and price.*

*There were two independent inspections of the car. I'll focus on the second that was completed in February of this year. I'll do that because the initial inspector hadn't been made aware that there was damage to the battery casement and on balance that would appear to have been the issue with this car.*

*The inspector thought it unlikely that the battery had been faulty when supplied but I don't agree. I say that because:*

- I've seen a job card from the garage that had the car before it was supplied to Ms M. That shows that the car had a problem with the battery only 70 miles before it was supplied to her. The job card says there was a fault with the high voltage harness and that it was rectified. I think it's more likely than not that the fault hadn't been resolved and that the damage to the battery had already been sustained but not identified. I say that because I can see that the main dealership Ms M referred the car to had significant difficulties identifying the fault and had to contact the manufacturer. That would seem consistent with the previous owners comments I've seen. He was so troubled by electrical issues with the car that he agreed with the finance company to allow him to reject it.*
- I'm persuaded Ms M's account of a recurrent electrical fault that disappeared only to return and then totally fail, is consistent with the account of the previous owner and suggests the fault was likely not to have been resolved or properly identified before Ms M took receipt of the car.*
- MotoNovo have explained that the dealership's photographs of the damage to the battery casement "does not look new in appearance and suggests this issue has been longstanding due to the build-up of corrosion around the battery casing and also the discolouration around the large split on the undertray." That seems consistent with my view and indeed, MotoNovo's, that the damage was likely to have been present when Ms M took receipt of the car.*

*And, even if I'm wrong about the fault being present when Ms M took receipt of the car, I think it was still of unsatisfactory quality when supplied as I don't think the casement of the battery has proven to be suitably durable.*



*So, on balance, I think this car has been of unsatisfactory quality. In those circumstances the relevant legislation would allow MotoNovo an opportunity to repair the car. But here that is uneconomical, and I think they were right to allow Ms M to reject it, as she wished, and to end the finance agreement she had with them.*

*Ms M is disappointed with the redress they have subsequently provided but I don't think it's been unreasonable. When this service instructs a firm to allow a consumer to reject a car we would usually tell them to collect the car at no cost to the consumer, end the finance agreement, pay an amount to compensate the consumer for the distress and inconvenience caused, refund any deposit or part exchange allowance, pay any reasonable costs the consumer had incurred as a consequence of the car's failure and refund some instalments in respect of the loss of use the consumer has experienced.*

*I think MotoNovo have done that. It wouldn't be fair for them to refund all the money that Ms M paid towards the vehicle as she was able to drive it for several months and cover about 6,254 miles before it failed. MotoNovo have retained six monthly instalments and have returned the rest. I think that was reasonable in the circumstances.*

*MotoNovo have refunded £690 in respect of hire car costs Ms M incurred. As they've already refunded some finance instalments in respect of loss of use and as I'd expect Ms M to mitigate any costs she incurred as a consequence of the loss of the vehicle, I think that was more than reasonable.*

*MotoNovo have agreed to pay Ms M £300 in respect of the distress and inconvenience caused and I think that's also in line with what this service would consider correct in the circumstances. I note, in particular, that MotoNovo have been helpful here and that they've tried to support Ms M's case when an investigator found little merit in it.*

*I note and understand Ms M's concerns that the car has been resold and hasn't been repaired. I've not seen evidence to support that but, even if I had, it's not for me to provide any opinion on that situation. My role here is to provide a resolution to the complaint Ms M has with MotoNovo and having taken all of the information into account, I don't think MotoNovo need to take any further action, but if they haven't provided the redress I've detailed below, they'll need to.*

### **My provisional decision**

*For the reasons I've given above I'm expecting to uphold this complaint and to tell MotoNovo Finance Limited to:*

- Allow Ms M to reject the car and end the finance agreement.*
- Collect the car at no cost to Ms M.*
- Refund any deposit that has been paid and add 8% simple interest\* per year from the date of payment to the date of settlement.*
- Retain six monthly instalments and refund the rest to Ms M in respect of loss of use. Add 8% simple interest\* per year from the date of payment to the date of settlement.*
- Refund £690 in consequential costs to cover the provision of hire cars. Add 8% simple interest\* per year from the date of payment to the date of settlement.*
- Pay Ms M £300 to compensate her for the distress and inconvenience she's experienced.*



- *Remove any adverse reports they may have made to Mr B's credit file in relation to this issue.*

*\*If HM Revenue & Customs requires the business to take off tax from this interest they must give the consumer a certificate showing how much tax it's taken off if the consumer asks for one.*

### **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.

Neither party responded to my provisional decision so I've not found cause to change it. That provisional decision now becomes my final decision on this complaint.

### **My final decision**

For the reasons I've given above I uphold this complaint and tell MotoNovo Finance Limited to:

- Allow Ms M to reject the car and end the finance agreement.
- Collect the car at no cost to Ms M.
- Refund any deposit that has been paid and add 8% simple interest\* per year from the date of payment to the date of settlement.
- Retain six monthly instalments and refund the rest to Ms M in respect of loss of use. Add 8% simple interest\* per year from the date of payment to the date of settlement.
- Refund £690 in consequential costs to cover the provision of hire cars. Add 8% simple interest\* per year from the date of payment to the date of settlement.
- Pay Ms M £300 to compensate her for the distress and inconvenience she's experienced.
- Remove any adverse reports they may have made to Mr B's credit file in relation to this issue.

*\*If HM Revenue & Customs requires the business to take off tax from this interest they must give the consumer a certificate showing how much tax it's taken off if the consumer asks for one.*

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 26 November 2024.

Phillip McMahon  
**Ombudsman**