

## **The complaint**

Miss K complains that the car she financed through a hire purchase agreement with MotoNovo Finance Limited was mis-sold. She wants to return the car and have her payments refunded along with compensation for the costs she has incurred while not being able to use the car.

## **What happened**

Miss K entered into a hire purchase agreement with MotoNovo in May 2020 to acquire a car. The cash price of the car was £42,750. A deposit of £20,750 was paid and £22,000 was financed via the agreement. The car was first registered on 24 May 2017 and the sales invoice states the mileage as 20,827.

At the time of acquisition, Miss K also acquired a warranty. In 2024 the car developed an engine fault which she said should have been covered by the warranty. However, when the car went for repair a mileage discrepancy was identified and so the repair costs weren't covered. Miss K said the discrepancy with the mileage arose before she acquired the car and she had been misled by the dealer and the finance company.

MotoNovo noted Miss K's complaint that a discrepancy in the car's mileage had been identified in the hire purchase register. It investigated the issue and contacted the hire-purchase investigation team to understand what information was presenting the discrepancy. It said that having done this, it found the error had been amended. It apologised but noted the error wasn't logged by MotoNovo and had now been corrected for Miss K. Based on this it didn't uphold her complaint.

Miss K responded to MotoNovo explaining that her complaint wasn't just that a discrepancy had been recorded but the impact this had on her. She said that the repairs needed to the car would cost around £14,000 and these should have been covered by her warranty but due to the manipulation of the car by a prior owner, the warranty company wouldn't cover the cost. She said she couldn't afford to pay for the repairs and selling the car with the higher mileage would be an issue. Miss K said this was causing her a great deal of stress.

Miss K referred her complaint to this service.

MotoNovo responded to this service with an offer for Miss K. It said that as an issue with the mileage reporting had been identified, Miss K should have been offered compensation for the distress and inconvenience she had been caused, and it offered her £500. It noted that Miss K had been able to drive the car since May 2020 fault free and the increased mileage hadn't affected her use of the car and so it didn't accept the car should be rejected. It said it would look to compensate Miss K for the time she didn't have use of the car and asked for further details regarding the repair.

Miss K didn't accept MotoNovo's offer. She said that the dealer had failed to do proper checks before the car was sold which resulted in her having a car with an incorrect mileage and her warranty not covering her repair costs. She said the cost of the repair was much higher than £500 and she had also incurred hire car costs while her car was undriveable and

storage costs.

Our investigator considered the issues raised by Miss K. She explained that the Consumer Rights Act 2015 (CRA 2015) was of particular relevance to this complaint. Under the CRA 2015 goods (in this case the car) needed to be of satisfactory quality. Our investigator contacted the car's repairing garage which confirmed the car wouldn't be repaired under warranty as the mileage had been tampered with. It was explained that when the car went in for diagnostics on 3 June 2024 the mileage was noted as 37,795 but the garage believed the correct mileage to be around 91,000 miles. It was thought the mileage manipulation took place between 26 September 2019 and October 2020. It said the fault with the car arose due to it being underserviced due to the incorrect mileage being recorded.

Our investigator accepted, on balance, that the mileage manipulation occurred before the car was acquired by Miss K. While she noted the dealer may not have been aware of this, she found that the car had been misrepresented. She thought that had Miss K been aware of the correct mileage of the car she wouldn't have paid the price she did and would likely not have entered into the agreement.

As a result of the mis-sale of the car, Miss K had a car that developed a fault sooner than she would have expected based on the mileage she was told it had covered. As the repairs weren't covered by the warranty Miss K hadn't had use of the car since June 2024 and had made use of hire vehicles. Miss K had also incurred storage costs, but our investigator thought that she could have mitigated these.

Our investigator upheld this complaint and recommended that Miss K's car be recovered by MotoNovo and any repair or diagnostics costs covered. She also said that Miss K's deposit should be refunded along with any payments she had made from June 2024. And that £500 compensation should be paid for the distress and inconvenience she had been caused.

MotoNovo didn't accept our investigator's view. It said that the evidence regarding when the alleged mileage tampering took place was inconclusive. It noted the following points:

- Dealer's advertisement showed the car in pristine condition which wouldn't be typical for a car with an estimated mileage of 53,205.
- The previous owner maintained the car according to the manufacturer's recommendations and the car's services were confirmed with no signs of mileage tampering.
- Research into the vehicle's pricing in May 2020 showed a small difference in value between 20,000 miles (£44,350) and 53,000 miles (£40,950). It said this wasn't significant enough to justify mileage tampering.
- Manufacturer's testimony placed the mileage adjustment during both the previous owner's and Miss K's ownership periods. It said if it was to be held fully liable the evidence needed to be clear on the date of the tampering.
- There was a chance the manufacturer had made an error, and the issues with the car were due to normal wear and tear. It said it had no conclusive evidence to prove the current issue was due to lack of servicing.
- The costs incurred were excessive, and MotoNovo should have been alerted to potential costs before any work commenced as it wouldn't have authorised amounts over £7,000 in repairs/storage costs without further guidance.

As a resolution hasn't been agreed, this complaint has been passed to me, an ombudsman to issue a 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.

When assessing a complaint, I take into account all relevant rules, regulations and guidance but my decision is based on what I consider to be fair and reasonable given the unique circumstances of the complaint. Where the evidence is incomplete, inconclusive, or contradictory, I make my decision based on the balance of probabilities, that is, what I consider to most likely have happened given the evidence provided and the wider circumstances of the complaint.

Miss K acquired a used car in May 2020. The dealer's invoice records the car's mileage as 20,827 and the car will have been priced based on that. I find it reasonable that Miss K would accept this information and the car's odometer reading as a statement of fact of the car's mileage. I also think it reasonable to believe that the mileage would have been a consideration in her decision to acquire the car.

When Miss K took the car to a repairing garage a mileage discrepancy was flagged. The repairing garage has said that manufacturer checks draw on data that wouldn't be available to others and this suggested the car's mileage to be over 53,000 miles higher than had been recorded. This is a substantial difference, meaning the car's actual mileage at acquisition was around 75,000 rather than 20,827. This is a different proposition to that which was presented to Miss K and I find that there was a misrepresentation of fact which led Miss K into acquiring a car with a much higher mileage.

I note the comment made by MotoNovo about the timing of when the discrepancy with the mileage arose. But given the evidence provided of the mileage when Miss K acquired the car and the subsequent service and MOT records, I find, on balance, it is more likely than not that the mileage discrepancy occurred before Miss K acquired the car. Therefore, I am upholding this complaint in regard to the car being misrepresented.

I have considered the impact this has had. While I note MotoNovo initially treated the complaint as a need to change the car's records, I think it should have investigated the issue from the outset and taken into consideration the impact the mileage discrepancy had. In this case, Miss K's warranty was no longer valid and due to the car's mileage being incorrect, the regular services hadn't all happened. The repairing garage has said this was the reason for the fault occurring.

Given I accept, on balance, the car was misrepresented and this has resulted in Miss K having a much older car which experienced faults which wouldn't be expected of a car with the mileage she believed she had acquired, I find the fair outcome is for her to be able to reject the car.

When a car is rejected, we would expect the car to be collected at no cost to the consumer and the agreement cancelled with nothing further owing. We would also expect any deposit paid to be refunded along with interest. I find these remedies fair in this case.

Due to the issues with the car, Miss K hasn't been able to drive it since June 2024. Therefore, additional to the action noted above, she should be refunded any payments she has made for the period when she hasn't been able to use the car from June 2024 onwards. I note Miss K's comment about incurring hire car costs but as I am expecting the payments from June 2024 to be refunded, I wouldn't also expect her hire car costs to be covered.

Miss K has explained that the car is incurring storage costs. I have considered this.

However, I also note that Miss K didn't make MotoNovo aware of these at the outset. In cases such as this, we would expect a consumer to mitigate their costs and while I note the comments that have been made about the car being dismantled and the cost in recovering this, I find that more could have been done to mitigate these costs. Because of this I do not think it fair that MotoNovo is required to cover these costs.

The required repairs haven't been undertaken, but to the extent costs have been incurred while the car has been at the repairing garage for work or diagnostics, I think that MotoNovo is required to cover the cost of these. I also think given the distress and inconvenience Miss K has been caused by the issue with the car and also by MotoNovo not addressing the impact this had when she first raised her complaint, that MotoNovo should pay Miss K £500 compensation.

### **Putting things right**

How to put things right:

- MotoNovo should arrange to recover the car from the repairing garage as soon as possible. If needed, Miss K may need to speak to the repairing garage to come to an arrangement about storage costs before they will release the vehicle. But once this has happened, MotoNovo should cancel the agreement with nothing further to pay.
- While the main repair has not been carried out the repairing garage has mentioned some repair costs. If any repairs or diagnostics have been completed by the repairing garage, that have not been covered by the warranty, MotoNovo should pay for these.
- As there has been no use of the car by Miss K since June 2024 any monthly payments made from June 2024 should be refunded.
- The full deposit amount should also be refunded to Miss K.
- 8% simple interest\* should be added to the refunded amounts from the date they were paid until the date of settlement.
- Any adverse information regarding this agreement should be removed from Miss K's credit file and the account should show as settled.
- Miss K should be paid £500 compensation for the distress and inconvenience this issue as caused her.

\*HM Revenue & Customs requires MotoNovo to deduct tax from this interest. It should give Miss K a certificate showing how much tax it's deducted, if she asks for one.

### **My final decision**

My final decision is that MotoNovo Finance Limited should take the actions set out above in resolution of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 9 April 2025.

Jane Archer  
**Ombudsman**