

## **The complaint**

Mr I is unhappy that, when a car was supplied to him under a hire purchase agreement with MotoNovo Finance Limited, a credit marker wasn't removed.

## **What happened**

In July 2022, Mr I was supplied with a used car through a hire purchase agreement with MotoNovo. He paid an £8,000 deposit and the agreement was for £42,000 over 49 months; with 48 monthly payments of £607.88 and a final payment of £24,519.89.

In September 2023, Mr I wanted to part-exchange the car, but he was unable to do so because there were two finance markers registered against the car – one from MotoNovo and one from the supplying dealership. Mr I complained to MotoNovo on 13 October 2023 as the dealership had since gone into administration.

MotoNovo said they were unaware of the finance marker registered by the dealership at the time the car was supplied to Mr I. Between September 2023 and May 2024 MotoNovo tried to resolve this issue for Mr I. However, in March 2024, as it became evident this matter would be ongoing for an extended period of time, MotoNovo allowed Mr I to part-exchange the car.

MotoNovo backdated the part-exchange value of the car to its October 2023 value of £30,600. They also said that the settlement value if Mr I had part-exchanged the car when he originally wanted to was £38,888.03. So, had the dealership's finance marker not been in place, Mr I would've owed them £8,288.03 had he part-exchanged the car in September / October 2023. However, Mr I had continued to both make payments and use the car until March 2024, and the shortfall between the October 2023 value and the March 2024 settlement figure had reduced to £6,280.58. MotoNovo agreed to write this amount off, as well as pay Mr I £700 for the distress and inconvenience he'd been caused.

Mr I wasn't happy with this offer, as he wanted compensation for the loss in value of the car from September 2023, as well as the payments he'd made and insurance costs he'd incurred since September 2023 to be refunded; in addition to compensation for the stress he'd been caused. So, he brought his complaint to the Financial Ombudsman Service for investigation.

Our investigator said that it wasn't disputed that a finance marker had been placed against the car by the dealership, and they thought MotoNovo should've identified this at the time and resolved it then. However, the investigator thought the fairest solution would be to put Mr I back in the position he would've been had he not been supplied with the car, which meant a refund of the deposit he'd paid in addition to the £700 compensation MotoNovo had offered.

Mr I agreed with the investigator but MotoNovo didn't. They thought what they'd done was fair and reasonable in the circumstances, and the deposit didn't need to be refunded.

I issued a provisional decision on 8 January 2024, where I explained my intention not to uphold the complaint. In that decision I said:

*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 I 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.*

*In this instance, it's not disputed there was a finance marker placed on the car by the dealership, which wasn't removed at the outset of Mr I's agreement with MotoNovo. I'm also in agreement that this is something that MotoNovo should've identified and resolved at the outset as part of their due diligence checks. As such, I'm satisfied that I don't need to consider the merits of this issue within my decision. Instead, I'll focus on what, if anything, I think MotoNovo should do to put things right.*

*As I've said above, I think MotoNovo should've identified and resolved this issue before the agreement started. Had they done so, Mr I would've been able to part-exchange the car in late 2023, as he wanted to. So, in a situation like this, I'm looking, as far as is possible, to put Mr I back in the position he would've been had things not gone wrong. So I think it's fair and reasonable to look at what should've happened in October 2023 had Mr I been able to part-exchange the car, and not look to reverse the whole transaction.*

*Mr I initially wanted to part-exchange the car in September 2023. I've not seen any evidence of how much he was offered for the car at that time, or anything to show me this was more than the £38,888.03 he would've had to pay MotoNovo to settle the finance agreement at the time. In the absence of this evidence, I think it's more likely than not that Mr I would've been offered a dealer's valuation of the car, based on a price provided by one of the main car valuation companies used by car dealers, insurance companies etc.*

*MotoNovo have provided the historic valuation details for October 2023, provided by one of the main car valuation companies. I've seen this value ranged from £27,950 for a car in a below average condition to £30,600 for a car in a clean (above average) condition. This means that, had MotoNovo resolved the issue with the finance marker at the outset, even if Mr I was offered something between the clean valuation and the expected retail price of £34,750 at the time, he would always have ended up having to make a payment to MotoNovo to clear the finance agreement in September / October 2023.*

*Mr I ended up continuing to maintain possession of the car, and having it available for his sole use, until March 2024. Because of this, I think it's only fair that he pays for this usage. So, I won't be asking MotoNovo to refund any of the payments he's made.*

*Mr I also feels he should be refunded the cost of taxing and insuring the car. However, I don't agree these costs should be refunded, and I'll explain why. While the car has been in Mr I's possession, it's been driven on the road. It's a legal requirement that a motor vehicle is both taxed and insured. And this is needed whether the vehicle is being driven or not. The insurance covers the vehicle for risks not associated with being driven, i.e., fire, theft, and third-party damage, so Mr I was still benefitting from the insurance payments, whether he was driving the car or not. So, I won't be asking MotoNovo to refund any of these costs.*

*Mr I was able to part-exchange the car in March 2024, at which point the settlement figure (even taking into consideration the additional payment Mr I had made) was still more than the clean value of the car in October 2023. As such, Mr I was still in a position whereby he would have needed to pay MotoNovo an outstanding amount upon part-exchange. And MotoNovo have agreed to waive this outstanding amount, meaning Mr I has benefited by not*

*having to pay a bill of around £6,000. Given this, I'm not satisfied that Mr I has lost out financially by not being able to part exchange the car in late 2023, and doing so in early 2024 instead.*

*Finally, I think Mr I should be compensated for the distress and inconvenience he was caused by the above. But crucially, this compensation must be fair and reasonable to both parties, falling in line with our service's approach to awards of this nature, which is set out clearly on our website and so, is publicly available.*

*MotoNovo have offered to pay Mr I an additional £700, to recognise the distress and inconvenience he's been caused by the complaint. And this is more than I would likely have recommended had no offer been made, given our service's approach and that Mr I hasn't lost out financially by what has happened. As such, it's now for Mr I to decide whether to accept this offer or not.*

## **Responses**

MotoNovo didn't respond to my provisional decision, but Mr I did. While he accepted my provisional decision, he said that, although he continued to use the car until March 2024, it was not his choice to do so. He said that he asked MotoNovo, on multiple occasions, to collect the car and stop taking payments, but they weren't able to do so because this matter was with their legal team.

Mr I also provided an email from a dealership dated 8 March 2024. This said they offered a £45,000 part-exchange value for the car in 2023, and this valuation was based on the motor trade guides at the time of Mr I's initial enquiry. However, due to "*security issues with the brand, high insurance premiums and bad press*" they were only able to offer a part-exchange value of between £22,000 and £24,000 in March 2024.

## **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.

As MotoNovo haven't said anything to the contrary, I'm taking their lack of comments to mean they don't object to my provisional decision.

With regards to MotoNovo not taking the car back in late 2023 / early 2024, I don't think this was unreasonable. As explained, MotoNovo were trying to remove a finance marker from the car by a third-party who had since gone into administration. So, it's reasonable to expect this will take a few months to get sorted. And, if sorted, this would then allow Mr I to dispose of the car how he wished. So, as the outcome MotoNovo were striving for was to allow Mr I to keep or sell the car, dependent upon his wishes, I wouldn't have expected them to offer to take the car back, as doing so wouldn't put Mr I in the position he would've been had this finance marker not been present.

With regards to the value of the car in 2023, the email makes it clear that this was based on the motor trade valuations at the time. I haven't seen the valuations the dealership relied upon, but I have seen the ones MotoNovo have provided using the same sources. And, as I've said above, the retail value of the car was £34,750 at the time, with trade part-exchange values being less than this. As such, I'm not convinced that the value Mr I was provided with was one the dealership would ultimately have paid, given these discrepancies. And I feel it likely that the price Mr I would've been eventually offered would have been lower than the initial £45,000, and most probably below the settlement value of the agreement at the time.

Therefore, for the reasons stated, Mr I's comments don't change my view, and I see no compelling reason why I shouldn't now adopt my provisional view as my final decision. As such, it's now for Mr I to decide whether to accept MotoNovo's offer of £700 compensation.

### **My final decision**

For the reasons explained, I don't uphold Mr I's complaint about MotoNovo Finance Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr I to accept or reject my decision before 11 March 2025.

Andrew Burford  
**Ombudsman**