

The complaint

Mrs A complains about the quality of a car she has been financing through an agreement with MotoNovo Finance Limited ("MotoNovo").

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here. Instead I'll focus on giving my reasons for my 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.

I know it will disappoint MotoNovo, but I agree with the investigator's opinion. Please let me 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.

Mrs A 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 relevant law says, amongst other things, 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.

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 Mrs A. The car here was about four years old and had completed about 59,000 miles so I think a reasonable person would it to be showing some sign of wear and tear.

But, I don't think a reasonable person would think it fair wear and tear if, as is the case here, the car needed a new engine after a further 4,864 miles of driving and a few further months of use.

The relevant legislation explains that when we consider whether goods were of satisfactory quality we should consider whether they have been durable.

The dealership have explained that this make, and model of car requires the cambelt to be replaced every five years or 70,000 miles. I don't think that means the belt should break at 70,000 miles or five years; I think that means that to maintain the car properly and ensure there isn't a failure of the cambelt and subsequent damage, the belt will need to be changed at those intervals. That suggests that it is expected the belt will last at least 70,000 miles or at least five years, whichever comes first.

This belt hasn't lasted that long. I've not seen evidence that Mrs A didn't maintain the car properly or that she contributed to the failure in any way. I therefore think the belt is likely to have failed prematurely and that it, and the car, haven't proven to be durable.

In those circumstances, the relevant law allows the business one opportunity to repair the car. That clearly wouldn't be commercially viable here as I can see estimates for the engine replacement work are more than the car originally cost.

So, I think MotoNovo should now allow Mrs A to reject the car.

Putting things right

MotoNovo should collect the car at no cost to Mrs A and they should end the finance agreement.

They'll need to refund any deposit Mrs A has paid and, as she's been deprived of that money, they will need to add interest to that refund.

Mrs A has been inconvenienced by these issues. She's had to take the car back to the dealership for repairs and has had to escalate her complaint to this service when I think it could have been resolved earlier. I can also see that Mrs A has struggled at times with transportation especially as she has a new-born. In those circumstances MotoNovo should pay her £100 compensation for the distress and inconvenience she's experienced.

Mrs A has been off the road for some time and hasn't had use of the vehicle. It's not fair that she pays for the use of the car during that period. So, MotoNovo should liaise with her and the dealership and refund any finance instalments Mrs A has paid (or waive them if they were due and haven't been paid) for the time she has been without the car.

My final decision

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

- Allow Mrs A to reject the car and end the finance agreement.
- Collect the car at no cost to Mrs A.
- Refund any deposit that has been paid and add 8% simple interest per year from the date of payment to the date of settlement.
- Liaise with Mrs A and the dealership to establish how long the car has been off the road. Refund (or waive) any finance instalments that have been paid (or were due) during that period. Add 8% simple interest per year to the refund from the date of payment to the date of settlement.
- Pay Mrs A £100 to compensate her for the distress and inconvenience she's experienced.

- Remove any adverse reports they may have made to Mrs A's credit file in relation to this issue.

*If HM Revenue & Customs requires MotoNovo to take off tax from this interest. MotoNovo must give Mrs A a certificate showing how much tax it's taken off if Mrs A asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs A to accept or reject my decision before 4 May 2022.

Phillip McMahon
Ombudsman