

The complaint

Mr E is unhappy that a car supplied to him under a hire purchase agreement with MotoNovo Finance Limited was of an unsatisfactory quality.

What happened

In March 2023, Mr E was supplied with a used car through a hire purchase agreement with MotoNovo. He paid a £15,672.44 deposit and the agreement was for £25,326.56 over 61 months, with 59 monthly payments of £559.58 and a final payment of £560.58. At the time of supply, the car was almost four years old, and had done around 35,300 miles.

Mr E says he started to have problems with the car in May 2023. He was told the turbocharger pipe had come off, and this was repaired. Mr E has also said that a similar problem happened a number of times over the next six months, and each time the car was repaired. However, in November 2023, Mr E says he was told the turbocharger had failed and it would cost around £8,500 to repair. He claimed for this repair under the warranty.

The car was inspected by an independent engineer on 13 November 2023. This took place when the car had done 41,943 miles and the report was commissioned by the warranty company. The engineer said *“the result of wear and deterioration of the turbocharger main seal and bearing allowing oil bypass, which has resulted in contamination of the induction system, subsequently blocking the charge cooler core. It is also probable that the DPF has also become contaminated ... We have been advised that the vehicle has previously had a replacement turbocharger, and recently had a replacement boost hose. Taking this into consideration, we do consider that these are related, as the recent boost hose issue has likely caused blockage of the DPF, increasing wear to the turbocharger.”*

The engineer concluded by saying *“the issue has clearly been ongoing for some time in order for the charge air cooler to become blockade [sic] with congealed oil and carbon to such degree. Taking into consideration the time and mileage elapsed since inception, we do not consider the condition would have been present at that point ... we can conclude that the condition is due to wear and tear of the turbocharger, which has resulted in contamination to the induction and DPF systems. We do consider this is related to the recent repairs. The defect would not have been present at inception.”*

Following this report, on 23 November 2023, Mr E had the DPF replaced at a cost of £2,411.22. Mr E has said that the car went into limp mode in January 2024, and he was told there was a problem with the EGR sensors, which could cost around £2,000 to repair. Mr E had settled the agreement with MotoNovo on 7 August 2023, and he complained to them about the quality of the car on 9 November 2023. While MotoNovo were considering his complaint Mr E disposed of the car, trading it in for another car.

MotoNovo didn't uphold the complaint as Mr E had carried out unauthorised repairs, and because the car was no longer available for them to carry out an investigation into the reported faults. Mr E wasn't happy with this response, and he brought his complaint to the Financial Ombudsman Service for investigation.

Our investigator said the only evidence to show there were faults with the car were in 13 November 2023 inspection report and the job sheets for the repair that took place on 23 November 2023. As neither of these indicated that any faults with the car were present or developing at the point of supply, the investigator didn't think the car was of an unsatisfactory quality when it was supplied. So, they didn't think MotoNovo needed to do anything more.

Mr E didn't agree with the investigator. He said he didn't think it was acceptable that a car that had done less than 35,000 miles had ended up with so many issues, and that the turbocharger failed when it did. Because of this, Mr E thought the car didn't meet the standard that any reasonable person would find satisfactory, that the independent engineer's report was "*full of opinions and factually incorrect*", and that the car was not fit for purpose when it was supplied.

Finally, Mr E felt that "*modern vehicles should be able to travel around 200,000 miles without any major problems*" so he's asked for an ombudsman to make a final 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 E 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, business 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 business can show otherwise. But, where a fault is identified after the first six months, the CRA implies that it's for Mr E to show it was present when the car was supplied.

So, if I thought the car was faulty when Mr E 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 business to put this right.

While I've noted Mr E's comments about the faults he had with the car between May and November 2023; I haven't seen any evidence of these faults, nor have I seen anything to show me these faults were as a result of something that was present or developing at the

point the car was supplied. It's also the case that, as Mr E disposed of the car during the complaints process, it's no longer available to be inspected.

I've have seen a copy of the independent engineer's report, dated 13 November 2023. The key findings of this report are detailed above, so I don't intend to repeat them here. However, I have noted that the engineer also confirmed their duty is to the courts, not to the person who instructed or paid for the report. As such, and while I appreciate that Mr E doesn't agree with me on this, I'm satisfied this report is reasonable to rely upon.

The independent engineer has made it clear that, although there is an issue with the turbocharger, this is as a result of wear and tear, and was not something present when the car was supplied. Given this, and the lack of any contradictory evidence, I'm satisfied the faults with the car weren't present when it was supplied to Mr E.

However, I've also considered Mr E's comments about how long the car should last without any major problems and, therefore, whether the car was sufficiently durable when it was supplied. While Mr E has said the turbocharger should have lasted 200,000 miles, this is the maximum expected lifetime of a well-maintained car. As such, it's not unexpected if this part were to fail before the car had reached this maximum mileage.

I've noted that the independent engineer has not said the turbocharger failed sooner than could reasonably be expected, and they put the turbocharger failure down to a boost hose issue that caused a blockage and increased wear to the turbocharger. So, it follows that it was this increased wear that cause the turbocharger to fail. And my research has shown that the boost hose on the make and model of car supplied to Mr E can fail at a low mileage.

Given this, I'm not satisfied that the issues with the car were something that was entirely unexpected given its age and mileage. As such, and while I appreciate this will come as a disappointment to Mr E, I'm not satisfied the car was insufficiently durable, and I won't be asking MotoNovo to do anything more.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 30 July 2024.

Andrew Burford
Ombudsman