

## **The complaint**

Mr H complains about the quality of a car he acquired through a hire purchase agreement with MotoNovo Finance Limited ('MotoNovo'). He says the car has broken down relatively quickly and so is not of satisfactory quality. And it may not be as described due to it possibly having travelled more miles than are shown on the odometer.

## **What happened**

In July 2023, Mr H acquired a used car. The car was first registered in September 2013 and so it was about ten years old. It had 63361 miles on the clock and its cash price was £6,995.

Mr H started a hire purchase agreement on July 2023. He paid a £100 deposit and the agreement was to be repaid through 60 monthly instalments. There were 59 instalments of £174.62 and then a final instalment of £175.62. If Mr H made repayments in line with the credit agreement, he would need to repay a total of £10,478.20.

Below is a summary of the issues complained about and the investigation and repair work that was carried out by the dealership and the independent garage that Mr H took the car to.

Mr H says when he was test driving the car, he noticed a warning light on the dashboard indicating potential problems with the temperature gauge. I understand the thermostat was repaired shortly after this time. This was repaired before Mr H acquired the car.

In December 2023 Mr H had the thermostat housing replaced by an independent garage. This was because the thermostat was sticking open. The car was tested after this work and was found to be working correctly.

Later on, but still in December 2023, Mr H says the car broke down and it needed recovery. He says it became erratic and he noticed blue smoke from the exhaust and a smell of oil burning. Mr H took it to an independent garage to have it looked at and this garage started some repair work.

It's unclear exactly what caused the breakdown, but it seems to have been related to parts of the engine potentially failing, such as the pistons. It could be related to the car overheating at an earlier time and the car may need a new engine.

In early January 2024, MotoNovo had an independent report about the car completed. The car had covered about 72,000 miles at this point.

The report says that the reporting company couldn't do a full test as the engine was partially dismantled. But, given what it could see, and as the vehicle had completed 8639 miles since Mr H acquired it, it thought the car was unlikely to have had faults at the time of sale. It was unable to identify exactly what the faults with the car were.

Mr H has an invoice from the independent garage that started the repair work on the car which says that blue smoke was coming from it, and it was running 'rough'. The garage had

snapped one of the glow plugs due to it being 'brittle' and the car needed a new engine which may be due to earlier overheating.

Mr H has complained to MotoNovo saying that the car had broken down and so it wasn't of satisfactory quality. He also thought that the car may have travelled more miles than the odometer showed due to the faults that had developed being characteristic of a much older car.

MotoNovo considered this complaint, and it didn't uphold it. It said that the independent report showed that any faults that the car may have had were unlikely to have been present at the time of sale. MotoNovo also thinks that the engine problems would have been noticed when the garage was working on the thermostat just before the failure.

Mr H didn't agree with this and brought his complaint to the Financial Ombudsman Service.

Our Investigator didn't uphold Mr H's complaint. He said that whilst there seemed to be a fault with the car. As it had covered over 9000 miles since Mr H acquired it, the problems the car had now were not likely to have been present at the time of sale. If there was an issue with the thermostat or engine when he acquired it, it's likely that Mr H would have noticed this much earlier.

Mr H didn't agree with the Investigator. He said that:

- MotoNovo had not handled his complaint professionally and it had not considered the faults with the car.
- He questioned the provenance of the car, for example the previous owner had sold it at an auction.
- He thinks the car may have been tampered with at some point and it had a much higher mileage than was shown when he acquired it.
- There had been no fault codes about the temperature system and the piston problems usually occur on vehicles with a much higher mileage.
- The problems with the thermostat meant the engine was stuck in the open position and the engine did not overheat.
- The independent reporting company did not make a full inspection of the car.

And Mr H outlined how the issues with the car had affected him.

Our Investigator didn't change their opinion about the complaint. There was some further correspondence, but no new issues were raised. Because Mr H didn't agree, this matter has been passed to me 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.

In considering what is fair and reasonable, I need to have regard to the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and (where appropriate) what I consider to have been good industry practice at the relevant time.

The agreement in this case is a regulated hire purchase agreement – so we can consider a complaint relating to it. MotoNovo as the supplier of the goods under this type of agreement is responsible for a complaint about their quality.

The Consumer Rights Act 2015 ('CRA') is relevant to this complaint. It says that under a contract to supply goods, there is an implied term that 'the quality of the goods is 'satisfactory'.

To be considered 'satisfactory', the goods would need to 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. So, it seems likely that in a case involving a car, the other relevant circumstances a court would take into account might include things like the age and mileage at the time of sale and the car's history.

The CRA quality of the goods includes their general state and condition and other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability can be aspects of the quality of goods.

This car was around ten years old when Mr H acquired it and it had travelled around 63,500 miles. The cash price was about £7,000 at that time. I think a reasonable person would accept that such a vehicle would probably have some parts that are worn and would need replacing sooner or later – which is reflected in the lower price paid in comparison to a new vehicle.

But there's also a reasonable expectation that a vehicle will be relatively durable - taking into account its age, price and mileage at the outset. So even though the vehicle wasn't new Mr H should have been able to use it for a reasonable period of time before it needed significant work.

### **Was there a fault with the car**

I think it's reasonable to say that the car does have some faults, even though it's not entirely determined what these are. Both the invoice from the garage, and the independent report, point to the car having what could be a significant problem with its engine. The engine may need to be replaced.

### **Was the car of satisfactory quality bearing in mind the fault**

The problems with the car that have caused this complaint happened about six months after Mr H got the car, and after he had driven it around 9,000 miles. But I need to consider whether the car was durable. If parts or systems of the car fail prematurely, this might indicate there was already a problem with the car when it was supplied.

As I've outlined above the independent report said that the garage where the car had been taken to noted that it had been able to get the car to start, but it was running erratically with unburnt fuel within the exhaust gasses. There were no fault codes found. The report did recommend that further investigation should be undertaken but it said that:

*'with the information provided through our instruction details of the vehicle completing 8 639 miles within 133 days from the time of purchase to the time of failure, the faults were not present or developing at the time of purchase. We would also consider the vehicle has been durable during the current customers ownership'*

I appreciate the exact nature of the problem isn't certain, and the reporting company couldn't complete a full inspection. But given the findings of the report and that Mr H was able to drive the car a significant distance before any problems became apparent with it. And that the car had some work completed on it a few weeks before the breakdown and no problems were identified. I don't think I can reasonably say that the engine problems were likely to have been present or developing at the time of sale or that the car wasn't durable. I don't

think Mr H would have been able to drive the car as much as he did if there was a present or developing problem with the engine when he acquired the car.

Mr H says that it may be that the car has been tampered with, in essence he thinks that the mileage has been artificially lowered. He's provided some background about the car and about the nature of the suspected fault with it. Mr H thinks that the potential fault, which he has described as possibly being 'piston blow-by', makes it likely that the mileage has been altered. This is because this type of fault is much more common in older cars of the type he bought.

Whilst it may be the case that the car may have a problem that is more common in older cars it doesn't mean that it is established that it is more travelled, or different in another way, than the car's records show. It could have developed this fault independently of its age or usage. And there is no other evidence to support that this wasn't the case. So, I don't think it would be right to uphold Mr H's complaint on this basis.

Mr H said that his complaint hasn't been handled correctly by MotoNovo. I have read what he has said about this, but it is fair to say that much of his disagreement is about MotoNovo's decision to reject his complaint. But whilst Mr H disagrees with the outcome Motonovo reached, I don't think it has considered the complaint incorrectly. It has investigated the problem and provided its final response. And Mr H has had the opportunity to bring his complaint to the Financial Ombudsman Service. So, I'm also not upholding Mr H's complaint about this.

So overall I'm not upholding Mr H's complaint. I think the car he acquired was likely to be of satisfactory quality. And I think MotoNovo considered his complaint properly.

### **My final decision**

For the reasons set out above, I don't uphold Mr H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 13 January 2025.

Andy Burlinson  
**Ombudsman**