

The complaint

Mr S complains that a car acquired under a hire purchase (HP) agreement with MotoNovo Finance Limited (“MotoNovo”) wasn’t of satisfactory quality when it was supplied to him.

What happened

The parties are familiar with the background of this complaint so I will only summarise what happened briefly here.

In June 2023, Mr S acquired a used car from a dealership (M). He paid a deposit for the car, with the balance of the purchase price being provided by MotoNovo under a HP agreement. The car was ten years old and had covered 102,000 miles when the agreement started. The agreement was for 48 months, and the cash price of the car was £8,995.

A couple of weeks after taking delivery, Mr S had to take the car back to M to repair a fogged headlight. Then a month after delivery, Mr S noticed some scratches to the bodywork to the car while he was cleaning it.

He got in touch with MotoNovo in July 2023 and asked them to respray the car or allow him to reject it as he felt it had been ‘over-polished’ by M whilst on display in the showroom. He also said that he felt the MOT carried out by M prior to supply of the car hadn’t been carried out correctly and had been hidden from him. MotoNovo arranged for an independent inspection of the car, which concluded the majority of scratches would have been present when Mr S acquired the car, but it was of satisfactory quality considering its age and mileage. The independent report determined it was the onus of Mr S to check the car’s condition prior to entering the agreement and it didn’t find any evidence of ‘over-polishing.’ In relation to the MOT, MotoNovo confirmed any faults noted on the original MOT had been repaired the day after and the car had then passed its MOT. They said there was nothing for them to comment on.

Mr S brought his complaint to our service. Our investigator didn’t uphold it. She said there was no evidence of the car being ‘over-polished’ and she felt it wasn’t unusual for a car of its age and mileage to have a few scratches on the bodywork. She said the issues identified on the original MOT had been repaired the following day and the information was available online. She didn’t think this had been hidden from Mr S.

Mr S didn’t agree. He maintained that the scratches to the car had been hidden from him by ‘over-polishing’ it.

As Mr S didn’t agree, it’s been passed to me to decide.

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 considering what is fair and reasonable, I'm required to take into account: relevant law and regulations, relevant regulatory rules, guidance and standards and codes of practice.

As the HP agreement entered by Mr S is a regulated consumer credit agreement this service can consider complaints relating to it. MotoNovo are the supplier of the goods under this type of agreement and are responsible for a complaint about their quality.

The Consumer Rights Act 2015 (CRA) covers agreements like the one Mr S entered. Because MotoNovo supplied the car under a HP agreement, there's an implied term that it is of satisfactory quality at the point of supply. Cars are of satisfactory quality if they are of a standard that a reasonable person would find acceptable, taking into account factors such as – amongst other things – the age and mileage of the car and the price paid.

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

But, on the other hand, satisfactory quality also covers durability. For cars, this means the components must last a reasonable amount of time. Of course, durability will depend on various factors. In Mr S's case, the car was used and had covered 102,000 miles when he acquired it. So, I'd have different expectations of it compared to a brand-new car. Having said that, the car's condition should have met the standard a reasonable person would consider satisfactory, given its age, mileage, and price.

Our investigator has explained that she thinks the car was of satisfactory quality when it was supplied to Mr S. I agree in this case. There is no doubt the car has some scratches on the bodywork – the photos provided by Mr S and the independent inspection report confirm that. But I'm not persuaded, from what I've seen, that I can conclude the car was of unsatisfactory quality when it was supplied to Mr S. I'll explain why.

Mr S brought the scratches to MotoNovo's attention in July 2023, just over a month after he'd been supplied with it. So, I need to consider if MotoNovo have done what I'd expect them to have done once they were aware Mr S was unhappy with the condition of the car.

The CRA explains that where goods are found not to have conformed to the contract within the first six months, it is presumed the goods did not conform to the contract at the point of supply. Unless the supplier, MotoNovo in this case, can prove otherwise. In Mr S's case, it was within six months when he first informed MotoNovo of the scratches to the bodywork of the car. MotoNovo agreed to arrange an independent inspection of the car to determine when the scratches had occurred. The inspection took place in October 2023, and the car had covered just under 104,000 miles – just under 2,000 since Mr S acquired it.

The independent inspection and report is, in my opinion, the most persuasive piece of evidence in this case. It was a physical inspection of the car by a qualified motor technician.

The independent inspection was asked to look at the condition of the car's bodywork as Mr S had reported numerous scratches to it once the initial polish from M had worn off. The technician concluded that the majority of the scratches would have been present on the car at the point it was supplied to Mr S but went on to say that a car of this age and mileage would be expected to carry some bodywork scratches, and it was the onus of Mr S to satisfy himself of the car's condition prior to moving forward with the purchase. The inspection report concluded that the car was of satisfactory quality when it was supplied to Mr S.

MotoNovo declined Mr S's request to have the bodywork resprayed or to reject the car, as the independent report confirmed the car to be of satisfactory quality when it was supplied to

him. I'm satisfied that was reasonable for MotoNovo to do. As previously mentioned, the car Mr S acquired was ten years old and had covered 102,000 miles when it was supplied to him. It's fair to say the car was far from brand-new. This means that the standard a reasonable person might expect from it would be lower than for a car that was younger and had covered fewer miles. Acquiring a used car carries some inherent risks, not least of which is that sooner or later items, bodywork, or components of the car, will need repair, respray or replacement.

Mr S has said that M had 'over-polished' the car in the showroom, meaning the bodywork scratches couldn't be seen. But he's also said he was aware of the scratches on the driver's side door when he took the car for a test drive prior to proceeding with the agreement. I haven't seen any legislation or regulations that suggest M shouldn't present the car in its best condition – or that 'over-polishing' has taken place. I've seen the photos of the car as it was when viewed by Mr S, and there's no doubt it was presented to him having been polished. But I'm not persuaded that that's an unusual thing for M to do, or that it falls foul of any regulations in place for selling a used car.

Mr S has also mentioned that he believes the car's MOT at the point of supply had been hidden from him as it had identified some faults that needed correcting before it could be passed. Having checked the MOT status online, and on the information provided by MotoNovo, I'm aware the car failed an MOT as Mr S was making arrangements to acquire it. But I'm also aware the repairs that were needed were carried out the following day, and the car subsequently passed its MOT. The independent report states that there is no evidence of any previous failed repairs, so I have nothing to suggest the MOT process wasn't carried out correctly. I've noticed that Mr S has also had an MOT completed on the car this year, and none of the previous faults were mentioned as needing attention. It follows that I'm satisfied the MOT was carried out correctly prior to Mr S taking the car.

I know this decision will come as a disappointment to Mr S. But I've explained above why I think MotoNovo have acted reasonably in this case. I won't be asking them to do anything more here.

My final decision

For the reasons above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 17 December 2024.

Kevin Parmenter
Ombudsman