**This report is for The Motor Ombudsman Ltd during the period June 2015 to June 2016**

The Motor Ombudsman Ltd achieved accreditation status under the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 on 24th June 2015.

Approval is granted from the Chartered Trading Standards Institute (CTSI), under arrangements delegated by to them by the Secretary of State for the Department for Business Energy and Industrial Strategy (formally Business Innovation and Skills).

It is incumbent on all certified providers to report back to the Competent Authority on its annual statistics during each certification period.

**Section 1(a) – Volume of disputes received, including summary of dispute type and territory (domestic or cross border)**

Enquiries are primarily categorised under the codes of practice we operate, (New Car, Service and Repair and Vehicle Warranty Products) and where they do not fall under our code remit the enquiry will be classed as ‘other’.

Not all enquiries made to TMO are formal disputes, with many consumers seeking guidance or information only.

Number of enquiries and disputes received from June 2015 to June 2016;

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  Enquiry type | No. of domestic enquiries | No. of domestic disputes | No. of cross border enquiries | No. of cross border disputes |
| Service and Repair  | 7,258 | 494 | 0 | 0 |
| New Car Warranty  | 7,484 | 454 | 0 | 0 |
| Vehicle Warranty Products  | 687 | 46 | 0 | 0 |
| Vehicle Sales  | 3,647 | N/A | 0 | 0 |
| Other | 696 | N/A | 0 | 0 |
| Total | 19,772 | 994 | 0 | 0 |

**Section 1(b) – Territory**

TMO are only able to assist where the business is an accredited code business. Currently our codes only cover UK businesses, however any consumer whether they are a resident in the UK or not, is permitted to access our scheme if they have a dispute with an accredited code business.

Typically TMO receives domestic disputes only due to the nature of the sectors we cover under our codes. Historically when purchasing a new car this would only be done in one of the manufacturers franchised dealers and similarly a consumer is likely to have a service or repair carried out locally

However cross border disputes do occur on occasion, for example if someone has travelled from abroad to the UK and required service or maintenance work during that time.

**Section 2(a) – Details of any systematic or significant problems occurring frequently:**

The Motor Ombudsman has been providing alternative dispute resolution for over 10 years (formally under the name Motor Codes Ltd).

The volumes of disputes that we see when compared to the amount of transactions that take place in the automotive sectors covered by our codes are relatively low.

It is promising to see that issues relating to areas of advertising are few in numbers and similarly customer service disputes are low in numbers, with issues relating to staff occurring when no common ground can be found in a dispute as opposed to being the main driver of the complaint.

Most issues are borne out of individual disputes which arise from faulty goods and or a dispute arising under warranty in addition to issues with repairs.

Many of these issues are exasperated by intermittent faults that are not always easily diagnosed and others can be from a breakdown in communication between the consumer and the trader.

Where there is evidence of a systemic issue with a business not meeting the standards expected of an accredited business they will then be subjected to a range of sanctions within our compliance regime. The aim of our codes is first and foremost to raise standards as opposed to penalising businesses. TMO will offer guidance to a business in the first instance about how to improve and allow a reasonable opportunity for this to be effected.

For more severe or persistent failures or where a business has not improved after a reasonable period of time, then TMO may suspend or expel a business from the code. Expulsion is the severest sanction with a consumer warning flagged on our website for a period thereafter to notify consumers of the non-compliance.

While there has been a small increase in contacts relating to new cars and service and repair, this can fluctuate for a number of reasons, for example we have seen more businesses referring their customers in recent years, and economic factors such as the volume of new car registrations increasing in the last few years will also play a part. Similarly the landscape has been impacted by the implementation of the EU Directive for ADR and the Consumer Rights Act 2015, which set out to simplify consumer law by harmonising eight sets of existing legislation, and in turn empowering consumers.

However the key area we have seen increased levels of contact has been around point of sale issues, particularly sales made at a distance and deposits.

While TMO has not historically dealt with point of sale issues, of the enquiries we have been receiving it is clear there has been a trend whereby sales concluded at a distance are causing some traders confusion. Primarily businesses are unclear as to what constitutes a distance sale and therefore what cancellation rights a consumer has, including the return of deposits.

**Section 2(b) How can this be problem be avoided or resolved in future?**

Our codes set out a specific set of commitments that traders should comply with and in turn ensures they are operating transparently and importantly fairly with their customers.

Vehicle point of sale issues has been one of the top complained about issues in the UK with it continuously featuring on the Consumer Advice top 10 list of complaints prompting Government to set up a Used Car Commission in 2013.

Following research undertaken by the commission some of the research did indicate a broadly compliant marketplace which was valued at £38.1 billion in 2013 with 7.1 million transactions a year.

However not all of the research supported this, with the market being deemed a complex one that is not homogeneous.

With vehicles often being the second largest purchase a consumer will make in their lifetime this can cause a high level of detriment where an issue does arise and this is not always limited to financial detriment, as consumers can rely on their vehicle for a number of reasons.

To address this, TMO has developed a sales code of practice in consultation with both the consumer lobby and automotive industry to produce a robust set of standards for vehicle retailers as well as practical guidance for consumers.

The sales code was launched on the 1st October 2016, covering the sale of both new and used vehicles. The sales code will not only allow consumers to identify responsible code approved businesses but provide peace of mind that should a problem occur the consumer to have access to our free ADR service.

Further to the deployment of a sales code we have developed in conjunction with CTSI, a suite of online training courses that TMO code accredited businesses can access to learn more about their legal obligations.

Currently these cover the Consumer Rights Act 2015 and the ADR regulations and to aid businesses who are selling vehicles, TMO are currently developing a further training course that will cover the legal obligations of a business under The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013.

**Section 3(a) – Average length of ADR proceedings**

TMO operates a procedure that is designed to resolve disputes within 33 working days and additionally operates an early resolution procedure which can be used at an adjudicator’s discretion for any suitable cases. More time may be taken to resolve complex cases, for example where a party requires further time to gather evidence.

A sample of 109 cases taken during Q1 2016 showed an average handling time of 37 days.

A further sample of 33 cases resolved through our early resolution procedure in Q1 2016 took an average of 8 days.

**Section 4 – Compliance with case outcomes**

Our accredited businesses are bound under the terms of the Code to comply with any final decision made should the consumer wish to accept it.

During the period of June 2015 to June 2016 there were two instances of non-compliance, both resulting in disciplinary action.

**Section 5 – Disputes rejected**

|  |  |
| --- | --- |
| Reason for case rejection | Volume |
| Have not contacted Trader | 136 |
| Already using another ADR provider | 7 |
| Compensation / exceeds claim limit | 13 |
| Conflict of interest | 0 |
| Frivolous claim, already resolved | 2 |
| More than 12 months | 1 |
| Non Code remit | 470 |
| Non consumer | 13 |
| Trader not a code accredited business | 361 |
| Total | 1,003 |

