

## The Motor Ombudsman Annual Activity Report 2017

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

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

It is incumbent on all certified providers to report to the Competent Authority on its annual statistics during each certification period as outlined in schedule 5 of the regulations.

This report is for The Motor Ombudsman Ltd during the period 1 October 2016 to 1 October 2017.

### 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, Sales and Vehicle Warranty Products) and where they do not fall under our code remit or the enquiry is not about a consumer issue then the enquiry is classed as 'other'.

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

#### Number of contacts received from 1 October 2016 to 1 October 2017;

Enquiry type	No. of domestic enquiries	No. of domestic disputes (contacts progressed through ADR)	No. of cross-border enquiries	No. of cross-border disputes (contacts progressed through ADR)
Service and Repair	10,215	521	1	0
New Car Warranty	10,059	575	0	0
Vehicle Warranty Products	1,190	61	0	0
Vehicle Sales	15,060	807	2	1
Other	2,829	N/A	0	0
<b>Total</b>	<b>39,353</b>	<b>1,964</b>	<b>3</b>	<b>1</b>

### Section 1(b) – Territory

TMO are only able to assist where the business is accredited under one or more of our codes. 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.

TMO predominantly receives domestic disputes 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 manufacturer's 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 and we have received three cross-border enquiries during the last reporting period.

Of these three, one originated within South Africa and related to a vehicle sale but as the business was based in South Africa and not accredited under our codes, we were unable to progress the enquiry to ADR.

Similarly, we had another enquiry from Portugal about a service and repair issue. Again, the business was not accredited by any of our codes and so fell out of our jurisdiction.

We received a third enquiry from a consumer based in Cyprus about the purchase of a vehicle in the UK from one of our accredited businesses and this enquiry was progressed through to adjudication.

### **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 (formerly under the name Motor Codes Ltd).

We have reported a 52% increase in the level of contacts received between 1<sup>st</sup> October 2016 and 1<sup>st</sup> October 2017 compared with the same period during the previous year.

While there has been an increase in contacts across all of our codes, this has been following a rebrand of our service in which we transitioned to an Ombudsman model on 1<sup>st</sup> November 2016.

Therefore, this uplift does not necessarily denote a rise in consumer complaints or detriment.

Consumer research that we undertook previously showed a lack of awareness among consumers about who to turn to in the event of an automotive dispute, and as a result, we have led a number of consumer awareness campaigns to raise the profile of our service.

When comparing the period 1<sup>st</sup> October 2016 to 1<sup>st</sup> October 2017 with the same period in the previous year, we have seen a modest uplift from 8,924 to 10,059 contacts relating to a new car, accounting for 25% of all contacts.

There was an 18% increase in contacts about a service and repair related issue with contacts rising from 8,686 to 10,216.

A slightly larger uplift of 41% was seen in contacts about a vehicle warranty product, although despite this contact volumes remain relatively low in this sector with contacts rising from just 844 to 1,190 and accounting for only 3% of our overall contact volumes.

The biggest increase was notably sales contacts, which rose 146% having increased from 6,124 contacts to 15,062, accounting for 37% of our overall contacts and making it our busiest code.

Again, it is difficult to draw any conclusions at this early stage as we only introduced our sales code in on the 1<sup>st</sup> October 2016 and this will have contributed to this significant increase in volumes.

It is also incumbent upon our accredited businesses to promote their commitment to our codes and signpost consumers to our service in the event of a dispute. To ensure businesses understand their commitments under our code and their obligations under The Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015, we have introduced online training for our members.

This is aimed at improving awareness of ADR within our membership and subsequently to their customers by ensuring they signpost appropriately and have the necessary information within their terms and websites.

In contrast to the volume of contacts going up, the escalation ratio of enquiries progressing to adjudication has actually decreased from 7% to 5%, although given the rise in contacts the overall number of cases has increased from 1,385 to 1,965.

This decline is in part, driven by the highly effective approach of The Motor Ombudsman's impartial adjudicators, whereby consumers and accredited businesses are given the necessary resources to help resolve the dispute between themselves quickly and amicably before the start of any formal adjudication.

However, we have also seen an increase in consumers contacting us about a business not covered by our codes and as ADR is not mandatory for businesses, we are not able to resolve these cases.

Overall, 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 remain relatively low.

Looking more closely at the types of complaints we have received, 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.

While there has been some increase in contacts relating to new cars and service and repair, this can fluctuate for a number of reasons. We have seen more businesses referring their customers in recent years and better signposting creating greater awareness.

However, 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 ADR Directive 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.

Top 5 case issues 1<sup>st</sup> October 2016 – 1<sup>st</sup> October 2017:

- 27% of cases relate to vehicle purchase issues (Quality) – Sales Code
- 14% of cases relate to new car warranty Issues – New Car Code
- 13% of cases relate to work Issues – Service and Repair Code
- 11% of cases relate Advertising Issues – New Car Code
- 5% of cases relate to staff Issues – Service and Repair Code

What we are also seeing more of in recent years across automotive is a rise in cases relating to newer vehicle technology such as compatibility issues with Bluetooth, satellite navigation systems and software as modern vehicles become more sophisticated and complex.

As Government strives to achieve environmental targets, it is likely we will also see a greater shift in consumer choice from diesel and petrol to electric and hybrid vehicles. This means service and repair outlets will also need to be skilled and competent to carry out servicing and repairs on these new technologies.

Another area of interest has been the rise in contacts from consumers who we would identify as vulnerable. While it is encouraging to see that more and more consumers are confident to raise these issues openly, it is of equal importance to ensure that businesses are able to identify consumers who may not necessarily identify themselves as vulnerable.

However, businesses not only need to be on the lookout for vulnerability, but be ready and willing to make reasonable adjustments and support the needs of a vulnerable consumer where possible.

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

The Motor Ombudsman continuously looks to develop to ensure its processes and operations are effective.

The addition of the Sales Code in October 2016 complimented our existing suite of codes, providing whole market coverage for consumers whether they are purchasing a new car, used car, utilising a warranty or having their vehicle serviced or repaired.

Vehicle point of sale issues have been one of the top complained about issues in the UK, particularly with used cars, continuously featuring on Consumer Advice's top 10 list of complaints prompting Government to set up a Used Car Commission in 2013. The sales code now provides consumers with more protection by raising standards across vehicle retailers and peace of mind with access to alternative dispute resolution when things go wrong.

Since the sale codes introduction, we identified that providing distance contracts were becoming more popular but some retailers were not aware what constitutes a distance contract and more importantly that their legal obligations differed when the sale was at a distance.

During 2017, we have developed a new training course in which to help businesses comply with the Sales code and the relevant legislation as well as making businesses aware of other valuable resources such as the Business Companion website.

One of the other areas that will require significant focus is increasing market share in both the sales and service and repair sector to ensure there is consumer choice in finding an accredited business, but equally mitigating the number of consumers we are unable to assist through not using an accredited business.

We will be assessing the new car code and working with the Chartered Trading Standards Institutes Consumer Codes Approval Team to ensure it remains fit for purpose for today's modern vehicle and emerging technology.

However, we will also be completing a gap analysis of all of our codes and assessing areas such as the provision of breakdown cover by vehicle manufacturers for new cars and recall issues.

In the meantime, we have been further developing our own in-house policy on vulnerability and while there are already provisions within the code for businesses to follow, we have been sharing our guidance with our accredited businesses through onsite training and case studies to help raise awareness.

We have also been highlighting changes to data protection laws coming into effect in May 2018. While data protection falls in the remit of the ICO, we want to encourage best practice and raise standards.

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

TMO's adjudication is designed to resolve disputes within 30 working days from referral. This allows 15 working days for adjudication and where necessary, another 15 working days for a final decision. More time may be required to resolve complex cases, for example, where a party requires further time to gather evidence.

Additionally there is an early resolution procedure, which can be used at an adjudicator's discretion to expedite a case, particularly if it is urgent or low level.

A sample of 298 cases taken between October 2016 and February 2017 showed an average handling time of 20 days, with the average handling time in December averaging slightly higher at 26 days due to the Christmas closure.

We only have one cross-border enquiry which has progressed through to adjudication and this case was opened on the 20<sup>th</sup> September 2017 and is currently ongoing.

There were 28 cases resolved through our early resolution procedure between October 2016 and February 2017 and, of this sample, cases took an average of 13 days.

### Section 4 – Compliance with case outcomes

Where there is evidence of a systemic issue with a business not meeting the standards expected of them, 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 actioned.

For more severe or persistent failures or where a business has not improved after a reasonable period of time, or refuses to cooperate, 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.

Since we transitioned to an Ombudsman model, our ADR process now allows both parties to appeal an adjudicator's decision and request a full and final review by our Ombudsman.

This gives both parties a fair opportunity to present their case and positively we have only seen seven businesses use the option to appeal the adjudicator's decision, demonstrating good levels of compliance and engagement.

Where a case does proceed to a final decision, the business is bound under the terms of the Code to comply with any final decision made should the consumer wish to accept it. Positively there has been no instances of non-compliance and therefore, no disciplinary action required.

## Section 5 – Disputes rejected

Reason for case rejection	Volume 1 <sup>st</sup> October 2015 – 1 <sup>st</sup> October 2016	Volume 1 <sup>st</sup> October 2016 – 1 <sup>st</sup> October 2017
Have not contacted Trader	74	152
Already using another ADR provider	6	18
Compensation / exceeds claim limit	6	31
Conflict of interest	0	0
Frivolous claim, already resolved	2	1
More than 12 months	0	1
Non Code remit	332	229
Non consumer	18	30
Trader not a code accredited business	272	773
Already concluded legally	18	19
Vexatious claim	1	0
<b>Total</b>	<b>729</b>	<b>1,254</b>

