



INDEPENDENT COMPLIANCE ASSESSMENT PANEL (ICAP)

Annual Compliance Report 2016

CONTENTS

3

Foreword from the
Managing Director
&
ICAP Chairman

4

SECTION 1:
Introductions and
Industry Insight

16

SECTION 2: Code
of Practice
performance
summary

24

SECTION 3: Case
Studies

30

SECTION 4:
Appendices

35

SECTION 5: ICAP
member comments

Managing Director and Chief Ombudsman's foreword



Bill Fennell
Managing Director



The year 2016 proved to be significant, as it saw the changing of our name and trading status from Motor Codes to The Motor Ombudsman on 01 November. Becoming the automotive industry's first ever ombudsman, was the result of nearly two years of planning, which involved the changing of both our processes and internal structure.

Following Stage Two approval by the CTSI, we also introduced the Vehicle Sales Code for new and used cars in September. This came as a result of the growing number of enquiries received from car buyers since the arrival of the Consumer Rights Act and Alternative Dispute Resolution (ADR) legislation in October 2015. The Citizens Advice Bureau also reported that, as a category, used cars represented the second largest volume of complaints from consumers since 2014.

Our Code of Practice portfolio now covers the entire customer buying and vehicle ownership experience, which means that we offer whole market support. Coupled with the transition to The Motor Ombudsman, this created greater demand for our ADR service, shown by a 50% increase in the number of enquiries and a 15% rise in the number of cases handled during November compared to the same month in 2015.

In 2017, our priorities will be to drive awareness amongst motorists and automotive businesses of the benefits of ADR and The Motor Ombudsman. We will be focusing on increasing the number of independent garages that are accredited to us, expanding our training course portfolio in-line with the needs of our accredited businesses, and raising customer confidence and satisfaction.

Chairman's foreword



Tim Wilson
ICAP Chairman



This is my third year as ICAP Chairman, and during this time, I have witnessed notable changes, both in the ADR arena and the motor industry. This has meant that organisations providing adjudication and arbitration in the sector have had to evolve in-line with the latest legislation, whilst addressing new consumer and business challenges, as well as shifting sector trends.

As Motor Codes transitioned to The Motor Ombudsman towards the end of the year, this was an important step forwards for the self-regulation of the automotive industry. My job as Chairman of the Independent Compliance Assessment Panel (ICAP) remained focused on ensuring that all processes and decisions taken continued to be fair and impartial and are in-line with all the facts presented.

The following annual report for 2016 provides information on the effectiveness of the Codes of Practice, and for consistency, summarises year-on-year performance.

SECTION 1: Introductions and Industry Insight

1.1 The Independent Compliance Assessment Panel (ICAP)

Remit

Meeting at least twice a year, the Panel is tasked with monitoring effectiveness, through the review of annual performance data, the analysis of subscriber performance, the commenting on compliance issues and the application of sanctions should they be required. The Panel is also responsible for looking at a cross section of complaints, whereby it examines a selection of adjudicator recommendations and ombudsman determinations, and considers whether these have been made on a fair and impartial basis.

Panel Members

The Panel consists of the following Industry Members. Under the existing constitution, only a quarter of individuals may be employed within the automotive sector for the purpose of impartiality.

Tim Milsom Chairman



Tim Milsom is an experienced motor industry professional who runs his own consultancy specialising in **Trading Standards** civil law compliance, and is an Associate of the Department for Business, Energy and Industrial Strategy (BEIS).

Tim was formerly the director of an award-winning independent garage for over 27 years. He also specialised in Trading Standards and Regulatory Compliance within the automotive sector, and brings experience in product safety, compliance, risk management and stakeholder engagement. Tim has developed Trading Standards business support / business education initiatives including guidance and advice, training and professional development, and other business support programmes relating to regulatory activities. Furthermore, Tim served as a Used Car Commission member, a government commissioned project to examine the root causes of complaints in the used car industry. It involved the liaison with a broad spectrum of commission members, the gathering and analysis of their input, and contributing to the drafting and development of reports.

Duncan MacRae



Duncan MacRae is the National Operations Manager at **The Automobile Association** and brings industry expertise having worked with The AA since 2003.

He has served in a variety of positions, overseeing various operations including the management of the Supplier Network Management department, the Garage Approval programme within the UK, the AA brand within the UK, Police National Vehicle Recovery Schemes and the Dealership Quality Standards Programme.

Duncan previously oversaw the Garage Inspection contract for The Motor Ombudsman prior to the introduction of the self-assessment, bringing insight to the panel of the operational activities.

Tim Roberson



Tim Roberson is a former senior economist at the **Office of Fair Trading (OFT)**, which has now merged with the Financial Conduct Authority and the Competition and Markets Authority. Previously he worked at HM Treasury, the Department of the Environment and the Department for Transport.

Employed for over 20 years at OFT, Tim was involved in a wide range of investigations including consumer credit, extended warranties, new car warranties, payment protection insurance, private medical insurance and current account banking. Other responsibilities included assessing unfair contract terms and commercial practices and their relationship with influences on consumer behaviour, and the scope for self-regulation (Codes of Practice) to give added protection to consumers.

Since 2010, Tim has been a member of the National Consumer Federation's Executive and Legislation Committees. Between 2012 and 2015, he was a member of the Consumers' Association (Which?) Council of Trustees.

Paul Swindon



Paul Swindon is Company Secretary and Head of Regulatory at the **British Association of Removers (BAR)**. BAR is the first UK Trade Association to have Assured Advice, under the Primary Authority regulations, a Chartered Trading Standards Institute-approved Code of Practice and an independent Alternative Dispute Resolution (ADR) scheme, ahead of legislation. For more than a century, The British Association of Removers (BAR) has been promoting excellence in the Removals Industry.

Judith Turner



Judith Turner is Head of ADR and the Senior Ombudsman at **The Furniture Ombudsman**. She read Law at King's College London for three years before graduating with honours in 1998. Judith then went on to complete the Legal Practice Course (LPC) and a training contract before qualifying as a solicitor in 2001. She was previously employed by a City Law firm, practising in Commercial Law. An experienced legal professional, Judith also specialises in Alternative Dispute Resolution and joined The Furniture Ombudsman in 2011.

Since her appointment, Judith has written and presented a wide variety of training courses on consumer law and compliance.

Jon Walters



Jon Walters has held the position of Consumer Service Delivery Manager at **Citizens Advice** for the last three years. Prior to this, he was the Service Delivery Manager at the Furniture Ombudsman and a Performance and Quality Officer at the Office of Fair Trading (OfT).

1.2 The Motor Ombudsman

1.2.1 Overview

Coming into force on 01 November 2016, The Motor Ombudsman is *the* automotive dispute resolution body. Fully-impartial, it is the first ombudsman to be focused solely on the automotive sector, and self-regulates the UK's motor industry through four comprehensive Chartered Trading Standards Institute (CTSI)-approved Codes of Practice¹ which provide whole market support and are designed to drive even higher standards of work and service. This gives today's consumers added protection, peace of mind and trust during the vehicle purchase and ownership experience.



1.2.2 The transition from Motor Codes to The Motor Ombudsman

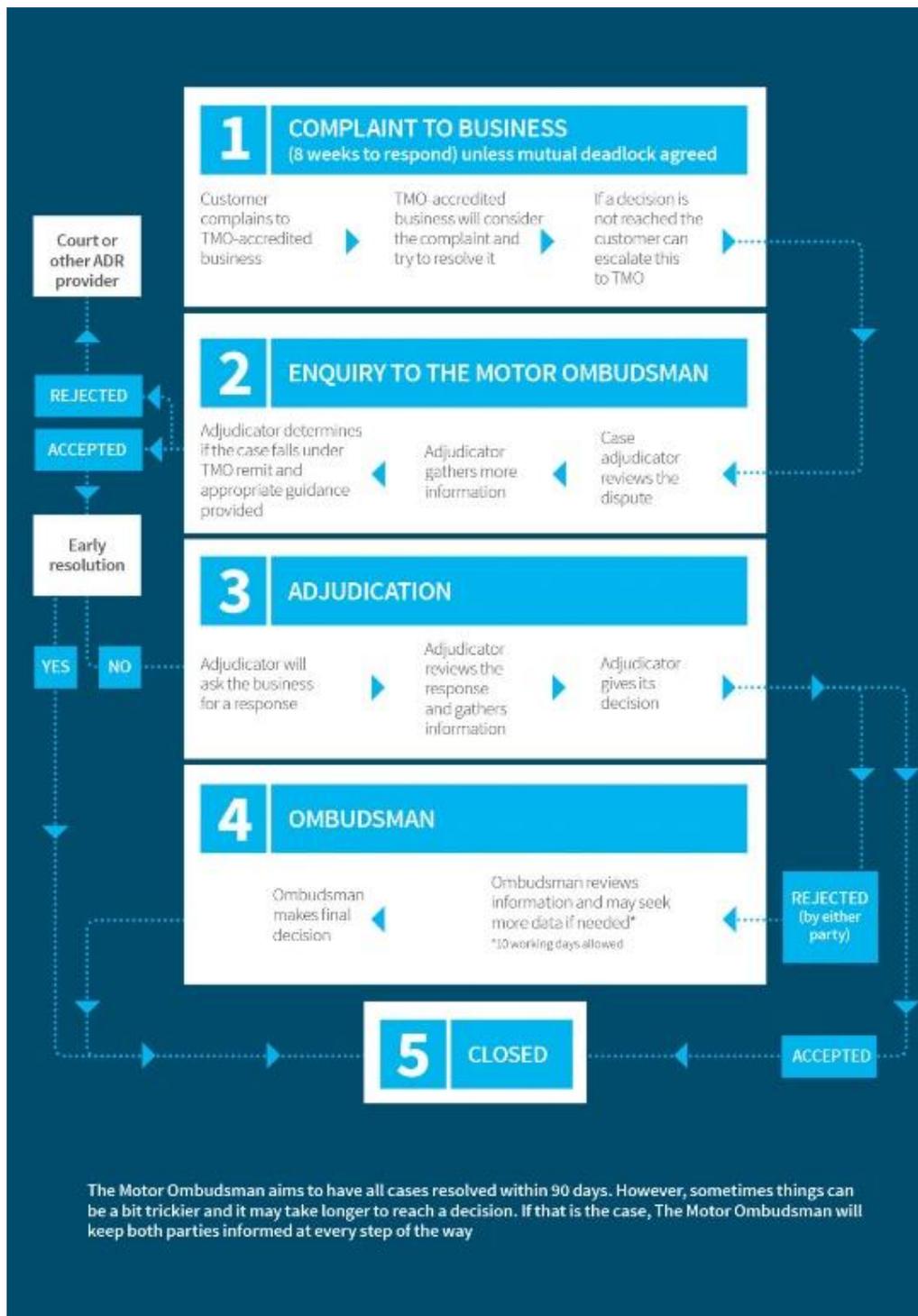
To be awarded Ombudsman status by the Ombudsman Association, the following key steps had to be taken by Motor Codes, amongst others:

- ▶ Bill Fennell was appointed as Managing Director and Chief Ombudsman
- ▶ Natasha Gasson² was recruited to take on the role of the in-house Ombudsman
- ▶ Non-Executive Directors from a non-automotive background were recruited to sit on The Motor Ombudsman's board, to ensure complete impartiality
- ▶ The number of adjudicators with a legal background and experience in dealing with motor-related disputes was increased
- ▶ A fully in-house adjudication process, from the raising of a case through to a final decision by the Ombudsman (previously known as arbitration), was adopted to ensure consistency
- ▶ A new chronological guide for the handling of customer disputes in-line with ombudsman processes was created (please refer to the following infographic)

¹ www.themotorombudsman.org/consumers/our-codes-of-practice

² www.themotorombudsman.org/useful-information/automotive-news-and-views/qa-with-our-in-house-ombudsman-natasha-gasson

▼ The Motor Ombudsman's Alternative Dispute Resolution process³:



Under Motor Codes, arbitration was handled by a third party, and was as at a cost to the consumer and business. Following the introduction of The Motor Ombudsman, the process is now entirely in-house and free of charge for consumers, including the Ombudsman's final decision which is legally-binding on the accredited business if the consumer chooses to accept it.

³ Refer to Section 2 for the definition of terms included within the flowchart.

1.2.3 Benefits of The Motor Ombudsman for consumers

The Motor Ombudsman offers consumers the following key benefits:

- ✓ A clear channel and single point of contact for all motoring-related disputes
- ✓ Free access to the alternative dispute resolution (ADR) and ombudsman service which is all in-house from start to finish
- ✓ Increased confidence and peace of mind when buying or servicing a car that a garage is meeting high standards of service and workmanship
- ✓ Codes of Practice that cover the entire customer purchase and vehicle ownership experience
- ✓ The ability to search for a local garage that is accredited to one of more of The Motor Ombudsman Codes of Practice
- ✓ First-hand customer reviews and ratings to make an educated decision when choosing a garage
- ✓ A valuable resource for motoring-related information on topics such as vehicle maintenance
- ✓ Access to a recalls database to check whether a specific vehicle (by VIN) has been recalled

1.2.4 Benefits of accreditation to The Motor Ombudsman

Accreditation to The Motor Ombudsman offers businesses the following key benefits⁴:

- ✓ Allows them to demonstrate their commitment to the highest levels of care and workmanship and an open and transparent way of doing business
- ✓ Unlimited and tailored information from a team of legally-experienced and qualified adjudicators who are all in-house
- ✓ Guidance through the entire dispute resolution process to get a fair outcome and a satisfied customer for repeat business
- ✓ They avoid increased detriment through costly solicitor and court fees
- ✓ Full use of The Motor Ombudsman and CTSI-approved Code logos at the business' premises, customer-facing literature and on their website
- ✓ A profile on the Garage Finder which can help to drive footfall, new business leads and revenue
- ✓ Valuable ratings and reviews from customers on the Garage Finder
- ✓ Amplified exposure through The Motor Ombudsman's marketing campaigns
- ✓ An improved rating during MOT test centre inspections
- ✓ Access to CTSI-accredited online training modules in relevant legislation affecting the automotive sector
- ✓ A listing on external high traffic websites such as the AA Garage Guide, amongst others
- ✓ A certificate demonstrating a commitment to one or more of The Motor Ombudsman's Codes of Practice

⁴ www.themotorombudsman.org/garages/tmo-accreditation/benefits-of-joining

1.3.1 Consumer feedback on The Motor Ombudsman

This encouraging feedback from accredited businesses was echoed by the following sample of testimonials from consumers who used The Motor Ombudsman's Alternative Dispute Resolution Service in 2016.

“After speaking with an extremely helpful adjudicator, I sent an email to the dealer. I received a phone call from senior management to confirm that they will put right all of the issues with the car at no cost to my daughter. I am extremely pleased with this outcome and thank you for your assistance.”

Mr B

“I just wanted to thank you for your help. I thought that I was fighting a losing battle with the dealer, but you managed to sort it out for me. I can't thank you enough!”

Mr M

“I have received a cheque from the dealer to refund the money I paid out for the warranty I didn't need. I am very happy that this issue has been resolved and would like to thank you for your support.”

Mr P

The Motor Ombudsman endeavours to achieve the complete satisfaction of consumers using the dispute resolution service. Regardless of acting in a fully impartial manner and following the correct processes and guidelines prescribed by the CTSI and the Ombudsman Association, Motor Codes and The Motor Ombudsman received a total of 15 consumer complaints in 2016, which are summarised as follows:

Complaints about The Motor Ombudsman	Outcome	Process	Delay	Staff issue	Total
No. of complaints made at early resolution stage	1	1	0	0	2
No. of complaints made at adjudication stage	6	0	1	0	7
No. of complaints made at enquiry stage	4	0	2	0	6
Total no. of complaints about the service 2016	11	1	3	0	15

- ▶ **0%** of complaints related to staff
- ▶ **20%** of all complaints related to a delay in responding to consumers
- ▶ **40%** of complaints arose during the enquiry stage, 27% of which were about the outcome
- ▶ **46%** of complaints arose following the adjudication stage, 40% of which related to the outcome
- ▶ **73%** of all complaints were related to the outcome

There were three complaints about a delay during 2016, one of which related to the accredited business not responding on time, whilst the other two were as a result of The Motor Ombudsman's own response times. Although a high volume of issues arose during enquiry stage, this was due to the complaint not being escalated to ADR as it was out of remit e.g. the business in question was a non-Code member.

1.4 The UK motor industry in 2016

The UK car market witnessed a very positive year in 2016, setting two records. New vehicle sales climbed for the fifth year in a row to almost 2.7 million units, whilst the used car market reached unprecedented levels with 8.2 million vehicles sold, a jump of 7.3% versus the previous 12 months.

During the 2015 to 2016 financial year (April 2015 to March 2016), the Citizens Advice Bureau (CAB) reported that used car customer service cases for a franchise and independent dealer fell by 5% and 9% during the 12 months, with independent dealers continuing the downward trend during the first two quarters of the 2016 to 2017 financial year. However, customer service cases associated with franchise dealers showed an opposite trend during these six months, increasing by 16%.

Used car customer service cases in 2016 (CAB)						
	Q1 2015 - 16	Q2 2015 - 16	Q3 2015 - 16	Q4 2015 - 16	Q1 2016 - 2017	Q2 2016 - 2017
Purchased from franchise dealer	2,009	1,732	1,665	1,891	1,759	2,047
Purchase from independent dealer	12,811	12,322	11,003	11,655	12,086	11,310

The Motor Ombudsman's ADR service equally reported an increase in the number of consumer enquiries relating to used cars which prompted the introduction of the Vehicle Sales Code in September 2016. Although the number of customer contacts remained high due to the launch of The Motor Ombudsman in November, the volume of cases that developed, stayed low (4.9%) relative to the number of contacts received in 2016.

Preliminary findings for the Vehicle Sales Code show that quality and vehicle purchase issues are the most prominent. Motor Codes and The Motor Ombudsman have also seen a growing trend of businesses conducting distance sales.

The UK motor industry in figures*



*All figures are for the 2016 calendar year.

SECTION 2: Code of Practice performance summary

The Code of Practice performance summary provides a year-on-year comparison of key metrics for each of Motor Codes' / The Motor Ombudsman (TMO)'s four CTSI-approved Codes of Practice. The following is a glossary of terms used in the summaries:

ADJUDICATION CASES are raised if the business that a consumer has a dispute with is accredited to The Motor Ombudsman, and the trader has been given a maximum period of eight weeks to try to resolve the issue directly with the customer.

CONSUMER CONTACTS are received by The Motor Ombudsman's ADR team, which can include a complaint, a query and a customer following up on the outcome of a case if one has been raised.

CONSUMER SURVEY VOLUME is the total number of surveys completed by consumers following a new car purchase or the repair or maintenance of their vehicle at an accredited business. They were left directly via the Motor Codes and The Motor Ombudsman websites, or were supplied via a data-feed by participating manufacturers and dealerships.

EARLY RESOLUTIONS are when complaints can be resolved simply with minimum intervention from the adjudication team. A case will not be raised in this instance.

ESCALATION RATE is the proportion of raised cases that were passed to arbitration (now known as a final decision by the Ombudsman).

FINAL DECISION (PREVIOUSLY KNOWN AS ARBITRATION) is only ever issued by the Ombudsman, and is the last stage of their involvement in a case if a consumer or accredited business does not accept the outcome of the adjudicator. The final decision is made independently from the adjudicators by looking at all the facts of the case, and is legally-binding if the consumer chooses to accept it.

FULL YEAR (FY) FORECAST is the figure that Motor Codes / The Motor Ombudsman is estimating to be the actual figure by the end of the year.

GARAGE FINDER SEARCHES are the total number of times that accredited businesses listed on The Motor Ombudsman's Garage Finder have been searched for by visitors to the website.

2.1 Service & Repair Code

Service and Repair

The [Service and Repair Motor Industry Code of Practice](#), which was introduced in 2008, ensures that consumers receive an honest and fair service when visiting an accredited business' premises for work or repairs on their car. It covers the use of clear advertising, open and transparent pricing, completing extra work only with prior agreement, and the use of competent and qualified staff. Around 25% of the total volume of businesses that are accredited to the Service and Repair Code are independent garages, whilst the remainder are franchise dealerships which represent over 95% of all franchised outlets. All accredited businesses represent around 30% of MOT stations in the UK, and are listed on The Motor Ombudsman's Garage Finder.⁵

Accredited businesses	2016	2015	Trend vs 2015	2016 FY Forecast
Consumer Contacts	9,012	6,258	▲	7,000
Early Resolutions	36	116	▼	250
Adjudication Cases	521	390	▲	440
Arbitration Cases and Final Decisions	57	4	▲	10
Escalation Rate	6%	9%	▼	10%
Garage Finder Searches	187,374	247,242	▼	282,000
Consumer Survey Volume	143,902	184,555	▼	200,004
No. of accredited businesses with penalty points	8	19	▼	•
No. of accredited businesses suspended***	2	8	▼	•
No. of accredited businesses expelled**	1	0	▲	•

**expelled by ICAP for non-cooperation of ADR case outcome – independent garage

*** suspended for non-cooperation of ADR case – both independent

⁵ www.themotorombudsman.org/garage-finder

Service & Repair Code - commentary

- ▶ 2% of contacts related to advertising
 - ▶ 4% were linked to billing
 - ▶ 7% of contacts resulted from bookings for servicing and maintenance
 - ▶ 11% concerned the handling of complaints
 - ▶ Staff accounted for nearly a third (**29%**) of contacts, whilst nearly half (**47%**) were related to the standard of work
- ▶ In 2016, Motor Codes and The Motor Ombudsman saw a **34%** increase in adjudications relating to the Service and Repair Code, and a **44%** rise in the amount of contacts received by The Motor Ombudsman compared to the year before



Motor Industry Code of Practice for

2.2 New Car Code

New Cars

Launched in 2004, the [New Car Code Motor Industry Code of Practice](#) ensures that vehicle manufacturers supply new cars and warranties to consumers responsibly. The Code helps to ensure that new car buyers will not be misled by adverts, that documentation supplied with the vehicle is easy to understand, that terms of the warranty will be respected if the car is serviced according to the recommended guidelines, and that any complaints will be handled swiftly. There are 39 subscribers to the New Car Code, meaning that 99% of all new vehicles sold across the UK are covered by this comprehensive guide of best practice.

Accredited businesses	2016	2015	Trend vs 2015	2016 FY Forecast
Consumer Contacts	9,104	7,204	▲	6,700
Early Resolutions	90	116	▼	135
Adjudication Cases	491	467	▲	530
Arbitration Cases and Final Decisions	27	6	▲	10
Escalation Rate	6%	9%	▼	10%
Consumer Survey Volume	2,384	2,995	▲	•
No. of accredited businesses with penalty points	0	0	•	•
No. of accredited businesses suspended	0	0	•	•
No. of accredited businesses expelled	0	0	•	•

New Car Code - commentary

- ▶ **5%** of contacts related to advertising
- ▶ **14%** of contacts concerned New Car Provisions⁶
- ▶ **51%** stemmed from a warranty dispute
- ▶ **18%** of contacts resulted from replacement parts and availability
- ▶ While **12%** related to the handling of complaints

- ▶ In 2016, Motor Codes and The Motor Ombudsman saw a **46%** increase in contacts related to the New Car Code versus the volume seen in 2015

⁶ *New Car Provisions* relate to the vehicle manufacturer's commitment in the New Car Code to providing consumers, upon the delivery of a new car, with information about after-sales services, a copy of the manufacturer's handbook and documents written in plain English.

2.3 Vehicle Warranty Products Code

Vehicle Warranties

Unveiled in 2010, the [Vehicle Warranty Products Motor Industry Code of Practice](#) aims to drive up standards across a wide range of automotive warranties, including coverage of both insured and non-insured products, by committing accredited businesses to higher standards than required by law. The Code currently represents about 70% of the industry's major providers that administer over three million products and is fully approved under the Trading Standards Institute (CTSI) Consumer Codes Approval scheme (CCAS).

Accredited businesses	2016	2015	Trend vs 2015	2016 FY Forecast
Consumer Contacts	844	741	▲	950
Early Resolutions	2	6	▼	6
Adjudication Cases	62	40	▲	61
Arbitration Cases and Final Decisions	4	0	▲	1
Escalation Rate	8%	6%	▲	7%
No. of accredited businesses with penalty points	0	0	•	•
No. of accredited businesses suspended	0	0	•	•
No. of accredited businesses expelled	0	0	•	•

Vehicle Warranty Products Code - commentary

- ▶ **67%** of contacts related to the clarity of information while **33%** of contacts related to the point of sale
- ▶ In 2016, Motor Codes and The Motor Ombudsman saw a 55% increase in the number of enquiries which are still continuing to rise due to the re-launch of the Code and the policy books being updated.
- ▶ TMO will be working with the VWP committee representatives in 2017 to help drive more awareness and interrogate areas of detriment as 2016 data reflects that businesses are not making appropriate provisions at the point of sale to provide fuller information. This also includes accommodating the needs of vulnerable consumers. It is not clear from the volume of data as to whether there is a clear correlation between the lack of information given at the point of sale and the issues with clarity of information within the terms and conditions.

2.4 Vehicle Sales Code

Vehicle Sales

Launched in September, the [Vehicle Sales Motor Industry Code of Practice](#) provides guidelines on the sale of both new and used cars, as well as the supply of finance and warranties, and covers nine different areas. These include the transparent wording of adverts and pricing, clear and transparent invoicing, and the sale of a used car which is supported by a vehicle provenance check to ensure that it has not been stolen, written-off and is free of any outstanding finance payments. Independent garages and franchise dealers which are accredited to the Vehicle Sales Code can be found on The Motor Ombudsman's Garage Finder.⁷

Around 60% of franchise dealers accredited to the Service and Repair Code are signed up to the Vehicle Sales Code. All vehicle manufacturers have however, bulk subscribed their networks, but some accreditations will only start in January 2017 which accounts for the remaining 40% who are not yet classified as 'New' in the table below.

Accredited businesses	2016	2015	Trend vs 2015	2016 FY Forecast
Consumer Contacts	7,238	2,671	▲	8,500
Early Resolutions	19	6	▲	50
Adjudication Cases	197	23	▲	200
Arbitration Cases and Final Decisions	25	0	▲	8
Escalation Rate	3%	1%	▲	6%
No. of accredited businesses with penalty points	0	•	▲	•
No. of accredited businesses suspended	0	•	▲	•
No. of accredited businesses expelled	0	•	▲	•

⁷ www.themotorombudsman.org/garage-finder

Vehicle Sales Code - commentary

- ▶ **19%** of the contacts received related to advertising
- ▶ **26%** and **30%** of contacts were connected to the presentation⁸ of a used and new vehicle respectively
- ▶ While **7%** of contacts were as a result of the sales process

- ▶ Motor Codes and The Motor Ombudsman saw a **171%** increase in the number of customer contacts relating to vehicle sales due to the introduction of the new Code
- ▶ This was mirrored by a **756%** uplift in case volumes

Marketing and press communications, as well as ongoing social media activity, will be used to promote the benefits of the Vehicle Sales Code for consumers and accredited businesses, and drive further accreditations in 2017.

⁸ 'Presentation' in the Vehicle Sales of Code of Practice requires accredited businesses, amongst other clauses to display used and new vehicles with accurate descriptions, prices and histories, and that they should be advertised correctly, and be available for test drive. Presentation is covered by clauses 2.1 to 2.13 and 3.1 to 3.9 in the Vehicle Sales Code.

Penalty points and sanctions

Motor Codes and The Motor Ombudsman operates a robust compliance regime that has various sanctions dependent on the severity of a Code breach. These include penalty points for low-level issues, suspension for more serious offences, and expulsion resulting in a consumer warning against the business where there are persistent failures or a refusal to comply with the Code terms and conditions. The number of penalty points and accredited business suspensions issued during 2016 was significantly down over the previous year.

Code type	No. of accredited businesses with penalty points		
	2016	2015	Trend
New Car Code	0	0	▲
Service and Repair Code	8*	19	▼
Vehicle Warranty Products Code	0	0	▼
Vehicle Sales Code	0	0	•
Total	8	19	▼

Code type	No. of accredited businesses suspended		
	2016	2015	Trend
New Car Code	0	0	•
Service and Repair Code	2	8	▼
Vehicle Warranty Products Code	0	0	•
Vehicle Sales Code	0	0	•
Total	2	8	▼

Code type	No. of accredited businesses expelled		
	2016	2015	Trend
New Car Code	0	0	•
Service and Repair Code	1	0	▲
Vehicle Warranty Products Code	0	0	•
Vehicle Sales Code	0	0	•
Total	1	0	▲

***All instances of penalty points related to a delay on responding to an ADR referral.**

SECTION 3: Case studies – adjudication outcomes and final decisions

The following case studies for each Code of Practice were reviewed by ICAP members to ensure that all outcomes were delivered correctly. All cases highlighted required the involvement of an adjudicator and the ombudsman.

3.1 Service & Repair Code

▶ Consumer's claim

Mr W claimed that the nearside front driveshaft fitted to his car was the incorrect part – number C127 instead of C172 – and that this had caused additional damage to his car's wheel, suspension arm, hub and flange. He had the problems repaired elsewhere, which cost £310, and was seeking to recover these costs from the original garage.

▶ Response of accredited business

The garage offered a refund for the original repair but was not willing to cover the cost of the extra damage because it had been repaired before they had been notified. They had therefore been unable to verify that all of the items on the invoice were related to their mistake. Furthermore, they felt the price of the repair was much higher than what it would have cost them, with some parts listed at 200% of cost price.

▶ Adjudication outcome

The adjudicator who looked at the case thought the garage had acted fairly. Because Mr W hadn't given them a chance to inspect the vehicle or authorise repairs elsewhere, they thought it wouldn't be right to ask them to pay the extra costs. Therefore, even though there was a breach of the Service and Repair Code as the incorrect part had been fitted, the garage had acted correctly to put things right. Mr W disagreed with the outcome, and therefore a final decision was requested.

▶ Ombudsman's final decision

The final decision supported the conclusions reached by the adjudicator. The Ombudsman felt that, without technical evidence to prove that all of the damage claimed for was directly linked to the fitting of the incorrect part, it wasn't fair to ask the garage to refund the money. Sadly, the damaged parts were no longer available for inspection which meant it was almost impossible for Mr W to obtain the technical information needed. Mr W also didn't contact the garage when the problems arose to give them the chance to put things right themselves – which is really what consumers

should do when they find an issue with a garage's service or repair. As such, in these particular circumstances, the fairest solution was to refund the initial repair. Mr W accepted the reasoning given and the offer by the garage in full and final settlement which subsequently brought the complaint to a close.

▶ **Consumer's claim**

Ms C took her car for a MOT and cambelt change. Whilst replacing the cambelt, the garage noticed that the water pump had a slight leak and Ms C authorised this work. After it was completed, the car would not start and, after investigating further, Ms C was told that she needed a new electronic control unit (ECU). The car was running without any problems before it went to the garage, and after receiving some advice, Ms C believed the garage had caused it to fail and therefore wanted them to cover the cost of repair which was around £900 plus VAT.

▶ **Response of accredited business**

The garage said that everything had been fine until they tried to start the car following the cambelt replacement and there was no communication with the ECU. After spending a lot of time checking wires and signals, it was found that the fault lay with the ECU unit itself. On inspection, the unit was heavily corroded and the numbers related to a different part number. This indicated that it had been possibly replaced previously with a reconditioned unit. The garage therefore replaced the ECU at cost price with no charge for the diagnosis or labour.

▶ **Adjudication outcome**

The adjudicator felt that there was not enough evidence to suggest the garage had caused or contributed to the fault with the ECU. The ECU had never been touched during the MOT or cambelt change and there was no technical evidence to suggest that any of the work could have led to the ECU failing. The adjudicator believed that the garage had acted reasonably in reducing the bill and therefore didn't make any further award.

This case was therefore successfully concluded and did not require an ombudsman's final decision.

3.2 New Car Code

▶ Consumer's claim

Mr P's car broke down without any warning lights on the dashboard. A coolant leak was subsequently identified, and although the car was outside of warranty, it was fixed under goodwill with Mr P making a small contribution. There was no indication of any engine damage at that stage. However, a few weeks after the repair, the car broke down again and it was found that the car needed a new cylinder head and engine block due to overheating. The overheating was so severe that some of the metal had melted. Mr P was faced with a bill of £11,000 to fix the damage. He therefore complained to the manufacturer and was seeking £5,000 for the value of his vehicle, £315 as a refund of the initial repair and compensation for his distress and inconvenience.

▶ Response of accredited business

The manufacturer believed that they had acted fairly by offering goodwill of around £4,000, to reduce his bill to £7,000, despite the car being out of warranty. The manufacturer said that, considering the extent of the overheating, Mr P would have seen a warning light and that he probably continued driving the vehicle despite this, thereby contributing to the damage. The manufacturer also thought that the original repair to the coolant leak could have been the issue which was not their responsibility. As such, the manufacturer was not looking to offer anything further.

▶ Adjudication outcome

The adjudicator said they could not find any evidence to show there was a manufacturing defect on the vehicle. Therefore, in the circumstances, the offer made by the manufacturer was fair, and to this end, the adjudicator did not ask them to do anything more for Mr P. Mr P disagreed with this and said there was no warning light on his vehicle, which was clear evidence of a defect, and requested a final decision from the Ombudsman.

▶ Ombudsman's final decision

The Ombudsman broadly agreed with the adjudicator that the outcome was fair. However, the Ombudsman was clear that when a vehicle is outside of warranty, there is no obligation for a manufacturer to assist with the cost of repairs even if a manufacturing defect is present on the car. As such, the manufacturer was acting more than reasonably and the ombudsman could not enforce that they do anything differently. The Ombudsman said Mr P could complain to the dealership that repaired his vehicle initially under the Service and Repair Code and see if they would be willing to assist, but there was nothing more that could be done with the case against the manufacturer. No further case was opened.

3.3 Vehicle Sales Code

▶ Consumer's claim

Ms D bought a new car in December 2013 for £7,500. In July 2014, the car required its first replacement clutch. In September 2015, it needed a further clutch, and then, over the course of the next year, a new engine, a new exhaust and the driver's seat broke off its base. All repairs were done under warranty. However, due to their general dissatisfaction with the car, Ms D requested a like-for-like replacement for free in August 2016 under their legal rights.

▶ Response of accredited business

The dealership said that, in their view, none of the faults presented were there when the car was sold, so there was no entitlement to a like-for-like free of charge replacement. The dealership was willing to offer them £2,500 as a part-exchange value for the car and to help them get into a new deal, but were not prepared to offer anything further.

▶ Adjudication outcome

The adjudicator looked at the case, and felt that the business had acted fairly because there was no entitlement, under the Code or the relevant law, for the consumer to be put into a replacement car for free. As such, the business was making a goodwill gesture and this could therefore be whatever they felt was reasonable in the circumstances. The adjudicator concluded that no further award could be made.

Ms D disagreed because they felt the part-exchange value offered for the car was very low, and so the case was referred for a final decision.

▶ Ombudsman's final decision

The ombudsman considered that the first fault in July 2014 was within the first six months and so would have been presumed present at the point of sale. However, it was repaired and the burden was now on Ms D to prove that the rest of the faults existed at the point of sale. As they had been unable to do so, and taking into account that at the time of the complaint there were no faults with the vehicle, a right to a like-for-like free of charge replacement did not exist. It was felt that a history of faults does not necessarily give rise to a valid claim to a replacement or refund. The Ombudsman asked why the valuation of the car was £2,500, as this did seem low, and was informed that the vehicle was in a non-saleable condition irrespective of the previous repairs. As such, it was found that the offer made by the business was reasonable in the circumstances.

3.4 Vehicle Warranty Products Code

▶ Consumer's claim

Ms H bought a used car which came with a free extended warranty. Six weeks after purchase, it was found that the timing chain tensioner had failed and caused consequential damage to surrounding components in the engine – costing just under £4,000 to repair. An independent engineer commissioned by the warranty company stated that they felt the tensioner failed due to wear and tear and, because there was a 90 day exclusion period for wear-and-tear claims, the claim was not covered. Ms H commissioned her own report which stated that these problems were covered under the manufacturer's warranty and were a known issue, meaning that the extended warranty should pay. As the warranty company continued to refuse the claim, Ms H complained.

▶ Response of accredited business

The warranty company said that they felt that their independent engineer's report carried more weight because he had found a definitive reason for the failure, whereas Ms H's engineer had not come up with a cause – he had just ruled out wear and tear. As such, they stood by their decision not to allow the claim as, whilst it would have been covered if it had been more than 90 days since the sale, it fell within the initial exclusion period.

▶ Adjudication outcome

The adjudicator looked at the case and, having assessed the independent reports, they preferred the report produced for the warranty company for the same reasons as they gave. It was therefore concluded that the tensioner failed due to wear and tear and the complaint was not upheld.

Ms H was unhappy with this and so asked for the ombudsman to consider the complaint.

▶ Ombudsman's final decision

The ombudsman disagreed that the cause of failure was wear and tear. Having carefully read both reports, both engineers agreed that the tensioner was known to fail at very low mileages, which was inconsistent with gradual wear. Instead, both reports appeared to suggest that the issue was known to the manufacturer, that the manufacturer covered claims within the warranty period, despite a timing chain being designed to last the lifetime of the vehicle, and that the issue was common for that make and model. Ms H's engineer, in particular, confirmed this – explaining that the manufacturer had since modified the part to avoid premature failure. The warranty terms and conditions had a specific exclusion for damage caused by a manufacturing defect, so in the Ombudsman's view, the claim was still excluded albeit under a different term of the warranty.

The ombudsman therefore issued a provisional decision as, although she was still not upholding the complaint, it was for different reasons – and allowed both parties to comment further. Ms H was unhappy that the Ombudsman still believed the claim was not covered but could not provide any evidence to rule out that the failure was as a result of a manufacturing defect. The provisional decision therefore became final. Ms H was told that, considering how soon after the sale the engine failed, she may have rights against the seller of the vehicle – however, the seller was not an accredited business so the Ombudsman could not explore this further.

▶ **Consumer's claim**

Mr G purchased a vehicle with an extended warranty. He had a problem with the car which led to a bill of £8,789. When he went to claim on the warranty, he was told that the warranty company would pay for £5,841 of repair, instead of receiving the maximum claim limit of £7,425. This is because the previous warranty holder had made claims which reduced the cover. Mr G said he had never been told about this and his documents showed a claim limit of £7,425. Therefore, he felt that this limit should be honoured.

▶ **Response of accredited business**

The warranty provider said that they had investigated the claims, and there were indeed some claims on the policy dating back to 2015. In fact, when they looked into the issue further, a total of £8,533.37 had been paid out on the policy, including the current claim. This means that they had overpaid as this was above the limit of £7,425. However, they were happy to honour the claim amount of £5,481, but would not be offering anymore.

▶ **Adjudication outcome**

The adjudicator looking at the complaint felt that the documentation provided to the consumer at the point of sale showed the claim limit as being £7,425. There was nothing anywhere to suggest that previous claims had reduced the limit of that cover. As such, it was reasonable for the consumer to believe he was entitled to the full scope of that cover and therefore the adjudicator upheld the complaint. The business accepted this and the full amount of £7,425 was honoured.

This case was therefore successfully concluded and did not require an ombudsman's final decision.

SECTION 4: Appendices

4.1 Penalty points table

Points	Sanction description
50	Written Warning 1
60	Written Warning 2
70	Website Consumer Warning / Performance Monitored
90	Referral to the Independent Compliance Assessment Panel (ICAP)

4.3 2016 Service and Repair Code survey results summary

In 2016, Motor Codes and The Motor Ombudsman received 179,360 completed surveys from people whose cars had been serviced and/or repaired within its network of accredited garages. Independent garages were the subject of 14,865 (8%) of these surveys, with the majority related to franchise main dealers (144,037). Manufacturer Authorised Repairers accounted for 20,458 survey returns. Survey submissions were slightly lower in 2016 versus 2015 due to the move from the Motor Codes website to the new Motor Ombudsman portal.

Survey section highlights	Satisfaction levels	
	2015	2016
Quality of work carried out by independent garages	99%	99%
Quality of work carried out by franchise dealers	96%	93%
Overall quality of work carried out	98%	97%
Customer service levels	98%	97%
Overall satisfaction	94%	93%
Likelihood to recommend	95%	94%
Total	184,855	179,360

The Motor Ombudsman aims to direct consumers to an accredited garage delivering high standards of work. The findings of the service and repair survey suggest the network is fulfilling this objective for the vast majority of customers. The 11,248 consumers who completed the survey in 2016 collectively scored 97% for the quality of the service and/or repair provided by the garage that they used. That is one percentage point lower than 2015 and 2014. For the same metric, independent garages achieved an aggregate score of 99% for the third year running, highlighting how this sector continues to set the standard in this regard.

Since the introduction of the Code, there has been a marked improvement in consumers' perceptions of the service provided by the garages in the network. In 2016, survey respondents scored garages in the network an average 97% for this important metric. This is one percentage point lower than last year and in line with the 2013 and 2012 scores.

The results of the survey showed a 1% decrease in overall satisfaction to 93%. Independent garages once again recorded the highest level of satisfaction in the service and repair sector, maintaining their high score of 99%. Franchise dealers on the other hand witnessed a 3% decrease in customer satisfaction during the same period.

Word of mouth plays a major role in determining which garages people use. In 2016, 94% said that they would recommend the garage that serviced and/or repaired their vehicle to friends and family. Across such a large sample, that high figure

demonstrates the consistently high standards being achieved within The Motor Ombudsman network.

Independent garages in The Motor Ombudsman network tend to score high on this metric. In the 2016 study, close to 99% of the consumers that had used a garage signed up to the Service and Repair Code said they would recommend the garage to friends or family. Manufacturer-franchise dealers and manufacturer-authorized repairers scored highly at 95% and 94% respectively.

The data equally showed that vehicle owners in Wales and Scotland are the most likely to give the name of their local garage to family and friends out of any motorists in the UK. Drivers in the southern Scottish counties of Berwickshire and West Lothian, as well as those resident in the Welsh areas of Cardiff, Neath Port Talbot and Bridgend, are the most loyal when it comes to sharing good experiences with others, with all championing the work of their chosen garage.

Furthermore, female motorists in the UK and those aged over 65 are the most effective communicators when it comes to advising relatives and acquaintances as to where they should take their car in for a service or MOT. Conversely, the 26 to 39 age group are the least inclined to pass on advice about a business that delivers good work and service.

Lastly, the survey highlighted that accreditation to a Chartered Trading Standards Institute-approved Motor Industry Code of Practice, remains very influential in the decision-making process of consumers when choosing which garage to visit, with more than eight out of ten people stating that this is a key factor.

Conclusion

Many of the scores in the 2016 survey are consistent with previous scores, which is reassuring to see over such a large sample size. Moreover, the absolute scores are hovering in the mid-nineties, confirming that accredited businesses are delivering a very positive experience to the vast majority of their customers. The Service and Repair Code continues to raise expectations and standards, enabling people to shop with confidence within the approved network. While the independent garages in The Motor Ombudsman network continue to generate outstanding feedback, most manufacturers' networks are also now achieving very high standards.

4.4 2016 New Car Code survey results summary

In 2016, Motor Codes / The Motor Ombudsman received 2,384 surveys from new car buyers which was lower than the volume received in 2015. This could have been as a result of the move from a paper to online survey, which could have made it more difficult to complete for some consumers.

The annual New Car Code study looks at the buying experience and satisfaction of motorists who have visited a franchise dealer belonging to any of the vehicle manufacturers that are accredited to The Motor Ombudsman's Chartered Trading Standards Institute (CTSI)-approved New Car Code of Practice.

Survey section highlights	Satisfaction levels (out of 5)	
	2015	2016
Purchase influenced by an advertisement (% YES)	38%	24%
Overall rating of sales staff product knowledge during the purchase of a new car	4.7	4.7
Overall rating of explanation of terms and conditions of sale during purchase of a new car	4.7	4.6
Overall rating of clarity of purchase/order documents during purchase of a new car	4.7	4.6
Overall rating of explanation of any additional charges during purchase of a new car	4.6	4.6
Overall rating of information regarding the delivery date during purchase of a new car	4.6	4.6
Overall rating of condition of vehicle upon delivery during purchase of a new car	4.8	4.8
Overall rating of assistance in understanding vehicle functions at delivery during purchase of a new car	4.7	4.6
Overall rating of explanation of terms and conditions of warranty during purchase of a new car	4.5	4.5
Overall satisfaction with the car	4.8	4.8
Overall satisfaction with the manufacturer	4.7	4.7
Overall satisfaction with the aftersales service	4.6	4.6
Total	2,995	2,384

The research found that almost a quarter of respondents (24%) acknowledged that their purchase decision was influenced by an advertisement. This figure is much lower than that of 2015 (38%), but is more in-line with the 2014 statistic of 22%, thereby indicating that publicity is playing a significant role in the new car market. It is important to note that this data captures customer perception and does not necessarily reflect the number of people who are influenced by advertising at a subliminal level.

Choosing a new car is a major decision for most consumers, many of whom look to dealerships for help in selecting the right vehicle for them at the right price. The New Car Code survey asks new car buyers to rate the assistance they received from sales staff on a scale of 1 to 5. The average score of 4.7 seen in 2016 mirrors that achieved in 2015. The vast majority of buyers are clearly happy with the assistance

they received in showrooms. Although customers can find a vast amount of information and reviews about cars online, the strong survey results suggest buyers still value the support of sales staff and dealerships in helping them to select a car, and to customise it to meet their needs.

When warranty repairs are required, garages should aim to make the process as smooth as possible for customers. On average, for the 116 consumers that had warranty work required on their vehicle, they rated the handling of the warranty repair at 2.8 (3.5 in 2015), while the turnaround time for the warranty work was rated at 2.9 down from 3.6, suggesting that manufacturers need to improve both these aspects of their service.

On average, the respondents in the 2016 poll rated their satisfaction with their new vehicle at 4.75 on a scale of 1 to 5. This follows the previous trend of 4.78 in 2015 and 4.73 in 2014. The consistently high figures (i.e. over 4.7) underline how the automotive industry continues to make significant improvements to its products. It indicates that most consumers feel they are getting good value for money, as manufacturers further enhance fuel efficiency, reliability, safety and in-vehicle infotainment systems.

In addition, UK consumers are generally very happy with the aftersales service provided by manufacturers. In 2016, they rated it at 4.59 on a scale of 1 to 5, which was again synonymous with last year's figure of 4.60, 4.47 in 2014 and 4.52 in 2013.

The New Car survey asks buyers how happy they are with the overall experience provided by the vehicle manufacturer. Responses reflect both satisfaction with the car itself and the associated customer service they receive. In 2016, the respondents on average rated their satisfaction with the vehicle manufacturer at 4.69, which was just slightly lower than the 2015 score of 4.72.

Conclusion

The high scores suggest that most consumers are very satisfied with their purchase. The automotive sector is successfully addressing consumer demand for vehicles that are reliable, safe, comfortable and a pleasure to drive. Moreover, the proportion of new vehicles requiring repairs under warranty is reassuringly low and falling. Still, the survey results indicate the industry does need to raise its game when it comes to handling warranty repairs.

SECTION 5: ICAP member comments

ICAP members noted the following points during their bi-annual meeting on 05 April 2017:

 <p>THE MOTOR OMBUDSMAN Motor Industry Code of Practice for Service and Repair</p>	<ul style="list-style-type: none">• The number of new subscribers has seen a modest increase of 112• The number of Garage Finder searches has decreased from 247,000 in 2015 to 187,000 in 2016• The number of penalty points issued and subscriber suspensions was significantly down versus the previous year
---	---

 <p>THE MOTOR OMBUDSMAN Motor Industry Code of Practice for New Cars</p>	<ul style="list-style-type: none">• The number of subscribers has remained constant at 39, and basically covers nearly all new car sales in the UK• Customer contacts has seen an increase of 2,800 over that recorded in 2015• Early dispute resolutions have fallen slightly from 2015 and adjudicated cases have remained nearly constant• It is particularly rewarding to see that the number of consumer surveys completed has increased significantly• No penalty points were issued to subscribers
---	---

 <p>THE MOTOR OMBUDSMAN Motor Industry Code of Practice for</p>  <p>APPROVED CODE TRAJINGOS HANUASUKA</p> <p>Vehicle Warranties</p>	<ul style="list-style-type: none"> • The number of subscribers has not changed • The re-launch of the Code has affected the number of enquiries • The majority of issues relate to the clarity of information provided to consumers which is a potential point that can be relayed to subscribers
---	--

 <p>THE MOTOR OMBUDSMAN Motor Industry Code of Practice for</p>  <p>APPROVED CODE TRAJINGOS HANUASUKA</p> <p>Vehicle Sales</p>	<ul style="list-style-type: none"> • The Code was introduced in September 2016, and therefore accurate comparative data was not available • The number of contacts showed a 171% increase following the introduction of the Vehicle Sales Code • The volume of early resolutions had not increased proportionally compared to the previous year • There was an almost even split between new and used vehicle enquiries • 25% of contacts received related to vehicle presentation
--	---