



## The Motor Ombudsman Schedule 6 biennial activity report 2019

The Motor Ombudsman Ltd (“TMO”) was approved as a provider of alternative dispute resolution under the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 (“the Regulations”) on 24 June 2015.

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

It is incumbent on all certified providers to report to the Competent Authority on their biennial statistics as outlined in Schedule 6 of the Regulations.

This report is for TMO during the period 1 October 2017 to 1 October 2019 (“the Reporting Period”).

### **a) The number of disputes received by the ADR entity and the types of complaints to which the disputes related**

All of our enquiries are logged against a Code of Practice or, where no Code is applicable to an enquiry, as ‘other’. TMO operates four Codes of Practice: New Car Code, covering manufacturer’s warranties; Vehicle Warranty Products Code, covering extended warranties and other types of protection policies; Service and Repair Code, covering the service and repair sector; Vehicle Sales Code, covering everything from the sales process to the quality of the vehicle. As can be seen in the table below, sales issues are the most frequently complained about, with almost 40% of disputes being related to a vehicle sale.

Not all enquiries received by TMO escalate to a formal adjudication. Sometimes, consumers and accredited businesses are just seeking guidance or information, or the issue gets resolved without TMO’s involvement. In the Reporting Period, around 6% of initial enquiries were progressed through TMO’s ADR process.

The table below details the number of enquiries received for each Code during the Reporting Period.

**Number of enquiries and cases for the period 1 October 2017 to 1 October 2019:**

Number of cases	No. of enquiries	No. of disputes (contacts progressed through ADR)
Service and Repair Code	23,703	1,684
New Car Code	18,073	1,874
Vehicle Warranty Code	2,820	287
Vehicle Sales Code	46,521	3,029
Other	27,204	N/A
<b>Total</b>	<b>118,321</b>	<b>6,874</b>

**b) The percentage share of alternative dispute resolution procedures which were discontinued before an outcome was reached**

In the Reporting Period, 7% of cases were withdrawn before an outcome could be reached. Most cases were withdrawn at the request of a consumer, for example, where they had settled the complaint with the business outside of the process. However, some cases were withdrawn as a result of new information showing that the complaint actually fell outside of TMO's remit. This is usually when TMO sends the complaint to the accredited business, who informs us either that it has already been to another ADR entity, such as the Financial Ombudsman Service, or through the courts.

**Number of cases withdrawn from the ADR process during the Reporting Period**

	1 October 2017 to 1 October 2018	1 October 2018 to 1 October 2019	1 October 2017 to 1 October 2019
Number of cases	330	156	486
Percentage share of withdrawn cases	8%	6%	7%

**c) The average time taken to resolve the disputes which the ADR entity has received**

As can be seen below, October 2017 to October 2018 saw disputes being handled, on average, within 78 days of receiving the complete case file. However, a challenging October 2018 to 2019 has seen an increase in these timescales, pushing the average overall across the Reporting Period to 111 days. TMO understands that these timeframes need to be reduced, in order to at the least meet the 90-day target.

TMO has already taken a number of steps to improve case-handling times, including increasing its headcount significantly across all areas of the ADR service over the past two years, as well as looking at the ADR process as a whole to maximise its efficiency, whilst ensuring it remains customer-friendly. This has led to various improvements, such as the creation of the new department of case investigators. This has meant adjudicators can

focus on making fair and reasonable decisions, whilst case investigators work to obtain the evidence needed from both parties so that complaints are investigated impartially, thoroughly and proportionately. Combined with various system improvements, TMO is already seeing case-handling times reduce and further developments will continue this trend.

Reporting period	Average case-handling time (domestic and cross-border)
1 October 2017 to 1 October 2018	78 days
1 October 2018 to 1 October 2019	143 days
1 October 2017 to 1 October 2019	111 days

**d) The rate of compliance, if known, with the outcomes of its alternative dispute resolution procedures**

99% of decisions have been complied with by TMO's accredited businesses during the Reporting Period. There has been one instance of non-compliance during this Reporting Period where an accredited business refused to pay out an award. TMO will be taking the accredited business to our Independent Compliance Assessment Panel with a view to expelling the business from the Code of Practice.

**e) Any recommendations TMO has as to how any systematic or significant problems that occur frequently and lead to disputes between consumers and traders could be avoided or resolved in future**

TMO works closely with accredited businesses in order to raise standards in the industry. This is through a variety of methods such as webinars, online training and committees. One trend that had been identified was a lack of knowledge in dealerships and garages around the distance contract regulations, and the differences between an on-premises and a distance sale. TMO therefore designed an online training course for the industry to ensure staff at accredited businesses know how to identify a distance sale, to ensure they are aware of their obligations and to enhance consumer protection. The course includes relevant case studies as well as a short test at the end.

Committee meetings, held jointly with vehicle manufacturers and extended warranty providers, provide an opportunity to feed back to accredited businesses around themes, trends and potential improvements. As an example, the increase in breaches relating to point of sale and clarity of information under the Vehicle Warranty Products Code highlighted that this was an issue requiring attention. As such, a workshop was produced for the committee on terms and conditions and how to improve consumer understanding, building on recent work undertaken by the Department for Business, Energy and Industrial Strategy in this area. The workshop used case studies to show why consumers found certain terms unclear, focusing particularly on the contentious area of wear and tear, which is equally misunderstood in the context of manufacturer's warranties. These meetings not only allow TMO to discuss what we are seeing, but also means vehicle manufacturers and extended warranty providers can discuss their processes and share what best practice means to them.

A key project for TMO this Reporting Period has been looking at the data it collects and how best to utilise this, including what it should be sharing with its accredited businesses. For example, TMO records the vehicle fault(s) experienced by the consumer: this could be issues such as

alloy wheel corrosion or an engine failure. Considering vehicle purchase quality remains one of the most complained about issues, this could give vehicle manufacturers vital intelligence from a mechanical perspective, as well as informing TMO about possible consumer expectation or knowledge gaps.

TMO has also focused on the recommendations it makes alongside financial awards. The case system has been amended to ensure that recommendations are recorded in addition to the case's outcome and that, where they are made, recommendations are SMART (Specific, Measurable, Achievable, Reliable and Timebound). This is to ensure accredited businesses are aware of exactly what it is TMO is asking them to do, as well as making sure recommendations are determinate, and that TMO can properly track compliance. Whilst financial awards are an important part of putting things right for the individual consumer, recommendations are crucial in preventing the issue happening again and promoting wider industry improvements.

**f) Where the ADR entity is a member of any network of ADR entities which facilitates the resolution of cross-border disputes, an assessment of the effectiveness of its co-operation in that network**

TMO's details are included on the Online Dispute Resolution ("ODR") platform. As of now, TMO has not received any disputes through the ODR platform and receives a minimal amount of cross-border disputes overall. Overall, the ODR platform has not proved particularly effective in facilitating the resolution of cross-border disputes. Consumer and business awareness still appears low and, whilst the number of online vehicle sales is growing, noting that selling by email can constitute an online sale in this context, there are still many dealerships and garages that almost solely conduct business on their premises, meaning they may not need to be part of the platform at all.

**g) Where the ADR entity provides training to its ADR officials, details of the training it provides**

All ADR officials appointed by TMO go through a rigorous selection process which looks at their skills, experience and understanding of the ADR process. All full-time case investigators, adjudicators and ombudsmen are required to have a law degree, so that TMO can be confident that they understand how to interpret and apply the law, whilst customer service agents all have previous contact centre experience.

Over the Reporting Period, TMO has improved and refined its new starter training to ensure ADR officials get the knowledge they need to excel in their role. This includes looking at each individual Code of Practice in depth; completing online and classroom training on the Consumer Rights Act 2015, Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015, the General Data Protection Regulation 2018 and the Data Protection Act 2018; role-specific training, including case studies, call listening and mock investigations where appropriate.

Once an ADR official gets into the live environment, they are continuously monitored to ensure their work is of a high quality and that they have a sufficient level of understanding to fulfil their function. Adjudicators, for example, go through a period where the Senior Ombudsman will check their decisions before they are sent to consumers and accredited businesses. This is to test the adjudicator's ability to process large volumes of evidence and information, before assessing this against TMO's Codes of Practice, the applicable legislation and what is fair and reasonable in the circumstances. The Senior Ombudsman will only sign off an adjudicator to work independently once she is confident that their work is of a consistently high standard and that their decisions stand up to scrutiny.

Ongoing training is also provided, ranging from legal training on the Consumer Rights Act 2015 to soft skills sessions on time management and programs like Microsoft Excel. A number of adjudicators and the Senior Ombudsman have completed Queen Margaret University's Professional Award in

Ombudsman and Complaint-Handling Practice, and performance and development reviews enable managers to understand where there might be skill or knowledge gaps, and how to address these effectively. This, combined with regular quality reviews and compliance training, ensures ADR officials continually refresh their knowledge and continue to work at the standard expected of them, both by TMO and those approving TMO.

#### **h) An assessment of the effectiveness of the alternative dispute resolution procedure offered by the ADR entity and of possible ways of improving its performance**

TMO has been operating as an ADR provider for over 10 years, including under its predecessor scheme, Motor Codes. Moving to the ombudsman model of complaint resolution in 2016 has enabled TMO to evolve and develop its ADR process, ensuring it is fair, independent and impartial for consumers and businesses, and that it remains effective.

There are various forms of ADR, each with their advantages and disadvantages. TMO predominantly uses adjudication to resolve disputes. By the time consumers and accredited businesses come to TMO, an impasse has been reached and adjudication, with its focus on providing a fair outcome for both sides based on the evidence provided, allows parties to move forwards. Outcomes can be flexible, and both parties can have confidence that a truly impartial view has been given of the situation. Adjudication is the dispute resolution process favoured by most ombudsman services as, whilst it retains the informality that is so crucial in ADR, it also means the process can carry more weight than, for example, mediation.

Sometimes, though, a more conciliatory form of ADR can be equally effective in finding a resolution, for example, by negotiating between the parties or allowing the accredited business a further opportunity to address the complaint and propose a mutually acceptable solution. Increasingly, TMO is finding that complaints can be resolved without needing to go through the full, formal adjudication process, to the benefit of everyone. TMO is currently looking at this process, called early resolution, and how to better embed this within its ADR functions in order to resolve things quickly and fairly, reserving adjudication for the disputes that really need it.

The introduction of TMO's web-form has significantly helped to improve effectiveness. Whilst the paper form has been retained to ensure TMO remains accessible to all, the web-form is user-friendly and has proved popular since its introduction.

Alongside this, TMO has developed its systems to allow for better oversight of casework, from the individual performance of ADR officials to gaining a more granular view of where each case is at any given time in the process, for example, not just knowing whether a decision has been made but also whether there is an outstanding payment as a result of that decision, or a consumer or business is looking to challenge it. Whilst this work is currently for the benefit of TMO, in terms of looking at the effectiveness of its processes, this will link into system improvements that will use the improved information recorded on the system to provide more detailed updates to consumers and businesses.

TMO works closely with other ombudsman schemes and ADR entities through the Ombudsman Association, in particular its casework group. This allows ADR entities to share best practice, as well as talk about challenges they have faced and how these have been overcome. TMO has fed into work around creating a competency framework for caseworkers, recommendations and compliance and the implementation of the Association's Service Standards Framework, and continues to learn from other ADR entities in order to continuously improve.