



The Motor Ombudsman Schedule 5 annual 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 annual statistics as outlined in Schedule 5 of the Regulations.

This report is for TMO during the period of 1 October 2018 to 1 October 2019 (“the Reporting Period”).

a) The number of domestic and cross-border disputes received

b) The types of complaints to which these disputes relate

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.

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. Just over 5% of enquiries made to TMO became a formal dispute going through TMO’s full ADR process.

The table below details the number of enquiries received for each Code, split between domestic and cross-border disputes.

Number of enquiries and cases for the Reporting Period:

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 Code	8,891	704	4	0
New Car Code	5,717	751	4	1
Vehicle Warranty Code	1,215	157	0	0
Vehicle Sales Code	17,373	1,234	7	0
Other	22,809	N/A	12	0
Total	56,005	2,846	27	1

c) Details of any systematic or significant problems that occur frequently and lead to disputes between consumers and traders, of which TMO has become aware due to its operations as an ADR entity

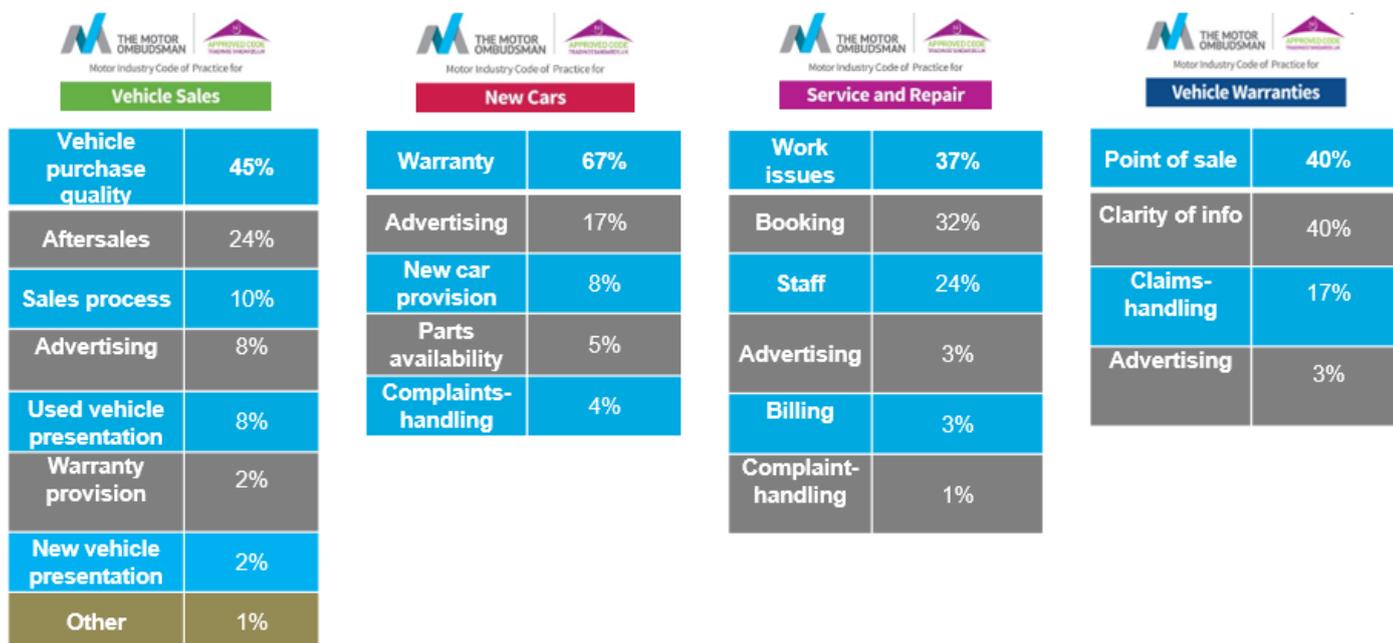
Vehicle purchase quality is once again the top source of complaints under the Vehicle Sales Code. Considering the mechanical complexity of vehicles, as well as consumer expectations of their often second biggest purchase after their home, it is unsurprising that issues arise when faults occur. Aftersales then form almost a quarter of complaints, with disputes ranging from a lack of contact to no assistance being provided when something has gone wrong.

Just over two thirds of complaints, 67%, under the New Car Code related to a declined claim under warranty. This is a fairly steep increase compared to the previous Reporting Period, where 46% of complaints were about a declined claim, but is more the result of a decrease in complaints around advertising, new car provisions and parts availability. Considering the purpose of the Code of Practice is to ensure manufacturers adhere to their warranty obligations, this does not give too much cause for concern albeit there are improvements that can be made.

Work issues are, understandably, usually the most complained about issue under the Service and Repair Code. However, the number of complaints about the booking process has risen from 12% between October 2017 and October 2018, to 32% in this Reporting Period. Numbers of complaints around staff have remained steady, though it is worth noting Section 5 of the Code, which relates to staff, also includes a duty to treat property with respect and care. As such, a number of the complaints relating to Section 5 are actually about damage caused to vehicles whilst in a dealership or garage, as opposed to the actions or attitude of staff themselves.

The Vehicle Warranty Products Code shows some interesting trends. Between October 2017 and October 2018, 70% of cases related to the handling of a claim. However, complaints about claims in this Reporting Period have dropped to 17%, with issues relating more to the sales process and the clarity of the information provided to consumers.

Breakdown of Code breaches by percentage for the Reporting Period:



d) Any recommendations TMO has as to how the problems referred to in paragraph (C) could be avoided or resolved in future, in order to raise traders' standards and to facilitate the exchange of information and best practice

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 is to them.

A key project for TMO this year has been reviewing the data it collects and how best to utilise this, including what it should be sharing with its accredited businesses to help them improve. For example, TMO records the vehicle fault experienced by the consumer, such as alloy wheel corrosion or an engine failure. Considering vehicle purchase quality is always 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 accurately recorded, alongside whether the case has been upheld or not. For instance, where TMO has advised changing a complaints policy or that an advertisement requires amendment 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 measurable, 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.

e) The number of disputes that TMO has refused to deal with, and the percentage share of the grounds set out in paragraph 13 of Schedule 3 on which the ADR entity has declined to consider such disputes

Of the 56,005 enquiries received in the Reporting Period, TMO declined to handle 4,305. Of these, 80% were disputes where TMO was not competent to handle the dispute, predominantly where the business is not accredited to TMO, forming 71% of these case rejections. The next most common reason was the case falling outside of a Code's remit, with 24% of cases falling into this category, followed by non-consumers at 6% and finally cases where a full and final settlement had been accepted at 0.2%.

In the 20% of disputes where TMO was competent to handle the dispute, 89% were declined because consumers had not yet complained to the accredited business, with 11% where the dispute was already being, or had previously been, considered by another ADR entity or a court.

Case rejection reasons where TMO is competent to deal with the dispute

Reason for case rejection	1 October 2016 – 1 October 2017	1 October 2017 – 1 October 2018	1 October 2018 – 1 October 2019
Has not contacted accredited business	152	218	776
Frivolous or vexatious	1	2	0
Dispute is being, or has previously been, considered by another ADR entity or by a court	37	41	100
The value of the claims falls below or above monetary thresholds	0	0	0
More than 12 months	1	4	0
Dealing with such a dispute would seriously impair the effective operation of the body	0	0	0
Total	191	265	876

Case rejection reasons where TMO is not competent to deal with the dispute

Reason for case rejection	1 October 2016 – 1 October 2017	1 October 2017 – 1 October 2018	1 October 2018 – 1 October 2019
Full and final settlement previously accepted	1	3	6
Non-consumer	30	100	184
Trader not a Code-accredited business	773	2,093	2426
Non-Code remit	229	715	813
Total	1,033	2,911	3,429

f) The percentage of alternative dispute resolution procedures discontinued for operational reasons and, if known, the reasons for the discontinuation

No disputes were discontinued for operational reasons.

g) The average time taken to resolve domestic and cross-border disputes

TMO strives to provide a timely service that is quicker and more efficient than the courts. It also understands its obligation to resolve disputes within 90 days of receiving the complete case file, except for more complex disputes. However, this year has been a challenging one for TMO, with a steep rise in contacts and cases and TMO has had to restructure and heavily invest in resources and infrastructure in order to cope with this demand. Whilst this investment is starting to reflect positively on TMO's key performance indicators, it has impacted case-handling times in the short-term as can be seen below:

Territory	Average case-handling time
Domestic	145 days
Cross-border	141 days

TMO recognises that this needs to reduce its case handling times and, as a result, TMO has significantly increased the number of customer service agents and adjudicators, as well as introducing a new department of case investigators. Case investigators compile complete case files, taking that task away from adjudicators and allowing them to focus on reaching fair and reasonable outcomes. Alongside this, TMO is looking to expand its use of automation and other technological solutions to streamline the complaint-handling processes. This year saw the introduction of TMO's web to case-form, for example, which now allows consumers to create a case directly into our case handling system via our website. This is combined with other system improvements that allow greater internal visibility regarding case data, case age and what stage they are at within adjudication process as well as monitoring individual productivity and quality of decisions.

h) The rate of compliance, if known, with the outcomes of the alternative dispute resolution procedures

99% of decisions have been complied with by TMO's accredited businesses. There has been one instance of non-compliance during this Reporting Period where an accredited business refused to pay 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.

i) The co-operation, if any, of TMO within any network of ADR entities which facilitates the resolution of cross-border disputes

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.