



## The Motor Ombudsman Schedule 5 annual activity report 2020

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 during each certification period as outlined in Schedule 5 of the Regulations.

This report covers TMO activity for the period from 1 October 2019 to 30 September 2020 (“The Reporting Period”).

For clarity, an ‘enquiry’ refers to an initial contact to TMO. A ‘case’ refers to an enquiry that has been accepted by TMO, either through our informal early resolution process or our formal adjudication process.

It is important to bear in mind that this Reporting Period includes the disruption caused by Covid-19 and the almost complete shutdown of the motor industry through lockdown, leading to four months of significantly lower volumes of enquiries, case referrals and case closures than forecasted.

- a) **The number of domestic and cross-border disputes received**
- b) **The types of complaints to which these disputes relate**

All 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:

- the **Code of Practice for New Cars**, covering manufacturers’ warranties;
- the **Code of Practice for Vehicle Warranty Products**, covering extended warranties and other types of protection policies;
- the **Code of Practice for Service and Repair**, covering issues ranging from workmanship to the booking process;
- the **Code of Practice for Vehicle Sales**, covering everything from the sales process to the quality of the vehicle, be it new or used.

The table below details the number of enquiries received for each Code, split between domestic and cross-border disputes. Bear in mind that we are now able to report on unique contacts, as opposed to factoring in repeat contacts as we were unable to separate the two. As such, the numbers differ from previous years as they now reflect this enhanced reporting capability.

Not all enquiries received by TMO escalate into a case. Sometimes, consumers and accredited businesses are just seeking guidance or information, or the issue gets resolved without TMO’s involvement. During the Reporting Period, around 10% of the unique enquiries made to TMO became a case requiring our dispute resolution process.

**Number of unique enquiries and cases for the Reporting Period:**

	No. of domestic enquiries	No. of domestic cases (enquiries progressed into ADR)	No. of cross border enquiries	No. of cross border cases (enquiries progressed into ADR)
Service and Repair Code	6,027	327	1	0
New Car Code	3,475	473	1	0
Vehicle Warranty Code	641	133	0	0
Vehicle Sales Code	10,649	1,234	3	0
Other	1,861	N/A	0	0
<b>Total</b>	<b>22,653</b>	<b>2,167</b>	<b>5</b>	<b>0</b>

- 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

**Breakdown of Code breaches by percentage for the Reporting Period:**



**Vehicle Sales**

Vehicle purchase quality	40%
Aftersales support	24%
Used vehicle presentation	13%
Sales process	8%
Advertising	4%
Complaint handling	4%
Other	4%
New vehicle presentation	2%
Finance provision	1%



**New Cars**

Warranty	76%
Advertising	18%
New car provision	2%
Complaint handling	2%
Parts availability	2%



**Service and Repair**

Work issues	47%
Staff	23%
Booking	16%
Complaint handling	6%
Billing	6%
Advertising	2%



**Vehicle Warranties**

Clarity of information	50%
Claims handling	25%
Point of sale	23%
Advertising	1%
Non-insured products	1%

## **The Code of Practice for Vehicle Sales**

Vehicle purchase quality remains our most complained-about issue under the Code of Practice for Vehicle Sales. Given the financial value of a new or used vehicle purchase, the thousands of mechanical components and the amount of digital or electrical content – as well as the emotional attachment and reliance on vehicles as a method of transport – this is unsurprising and mirrors trends seen in previous years. This is supported by breaches relating to used vehicles forming 13% of complaints considered under the Code, compared to new cars at only 2%. As the age and mileage of vehicles increase, so does the likelihood of experiencing faults – however, consumer expectations of new and used cars remain at similar levels despite this.

It is also interesting to note that complaints around advertising and the sales process remain low, whilst aftersales support has stayed as the second largest source of complaints. This suggests there continues to be work for dealerships to do in this area to ensure consumers feel that they are valued, even after their purchase has concluded.

## **The Code of Practice for New Cars**

The Code has seen another rise in the number of complaints regarding declined warranty claims, increasing from 67% in the previous Reporting Period to 76% in the current period. Under the Code, the manufacturers' main obligation to their customers is to repair vehicles under warranty. It is therefore to be expected that most disputes under this Code relate to the manufacturer declining to cover the repair under warranty.

Whilst we have previously worked with manufacturers to ensure the wording within their warranty documentation is clear and accurate, the next step is to increase consumer understanding of manufacturer's warranties and the manufacturer's liability for the vehicle – we have identified that there is a great deal of consumer confusion around the relationship between the manufacturer and the selling dealership, as well as an expectation that a warranty will cover all faults experienced.

However, complaints concerning advertising, new car provision and parts availability have declined considerably, demonstrating improvements across a significant number of areas.

## **The Code of Practice for Service and Repair**

Work issues continue to be the most complained about issue under the Code of Practice for Service and Repair, increasing by 10% from 37% in the last Reporting Period to 47% in the current one. This increase broadly correlates with a 16% decrease in complaints about booking, perhaps demonstrating that figures for the last Reporting Period were somewhat of an anomaly.

This is in line with our forecasts regarding breaches to this Code. Complaints around staff have remained steady, and it is worth noting that Section 5 of the Code, which relates to staff, also includes a duty to treat property with respect and care – with a high proportion of the complaints considered under this Section relating to damage caused to vehicles whilst the car has been in for its service or repairs.

## **The Code of Practice for Vehicle Warranty Products**

This Code continues to have fluctuating complaint trends, with complaints about a claim rising slightly from 17% in the last Reporting Period to 25% in this one, but still some way off where this level used to be. Complaints about the point of sale have dropped from 40% in the last Reporting Period to 23%, with clarity of information being the most complained about issue. This shows there is some work to do around policy documentation, language and explanations, as this continues to grow as an area of consumer frustration.

**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 has continued to engage with its accredited businesses to achieve its aim of raising standards in the industry. This has typically been through one to one relationship management and review meetings. In addition, over the course of the Reporting Period, we have held two joint committee meetings with manufacturers and extended warranty providers – going through case studies, legislative changes and areas of focus for the businesses. We have also held three dedicated committee meetings and workshops for the extended warranty providers, allowing TMO to lead sessions on the areas of Code growth – for example, a workshop on clarity of information took extended warranty providers through real-life scenarios and gave practical advice on how to improve certain aspects of their policies and processes. These are always well-received, and they prompt interesting and useful discussions between accredited businesses so that good practice can be shared amongst the industry. TMO complements these meetings with monthly email updates that include industry updates, key insights from TMO's work and relevant cases – these are circulated to all accredited businesses.

A significant step in driving improvements to our service at the manufacturer level was the launch of TMO's data dashboard. This provides manufacturers with a live environment to review their case volumes in detail over any specific period and relating to any of TMO's Codes of Practice. It also allows them to understand the volumes of enquiries and cases we receive against the total, allowing for benchmarking across the accredited businesses. Looking forwards, we will be working with dealer and garage group head offices to provide them with the relevant data for all accredited dealers and garages within their groups, alongside creating dashboards for vehicle warranty product providers. In addition, we have been looking at our data collection and input process, to ensure that TMO is continually improving the quality and accuracy of the information it records in order to further enhance the standards within the industry. This has included recategorising the way in which we record vehicle faults, so that the data is more relevant and useful for accredited businesses. This has the added benefit of ensuring that TMO is a reputable industry data source for all key stakeholders.

We are now working on redesigning the way in which we record Code breaches and outcomes – this will improve the visibility of both alleged and confirmed breaches, as well as making the Codes more accessible for both consumers and accredited businesses. This will assist us in collating complaint information at the start of our process, allowing us to focus our investigations and make accredited businesses' obligations clearer and easier to understand. This work is being undertaken in conjunction with a full review of all four Codes of Practice to ensure they remain relevant, fit for purpose and effective.

TMO has continued to work on its recommendations, made alongside case decisions as a means of encouraging improvement and making practical changes to benefit a wide range of consumers. These include suggestions for process developments; directions to undertake training sessions, for example in ADR or the Consumer Rights Act 2015; and wording updates to terms and conditions or adverts. The next step will be to use the insights we gather from making individual recommendations and to look more broadly at the industry as a whole – for instance, if we consistently make recommendations that documents need to be signed, this gives us information that we may not have gathered through logging Code breaches that could lead into a new training module or set of webinars.

**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 TMO has declined to consider such disputes**

Of the 14,834 unique enquiries received in the Reporting Period, TMO was unable to progress 4,412. Of these:

- 11% (467) were enquiries where TMO would ordinarily be able to handle the dispute:
  - 73% (342) were because consumers had not yet complained to the accredited business;
  - 23% (110) were where the dispute was already being, or had previously been, considered by another ADR entity or a court.
- 89% (3,945) were enquiries where TMO was not able to handle the dispute.
  - This is mainly where consumers are contacting us with complaints about businesses that are not accredited to one or more of our Codes of Practice – with 71% (2,809) of cases being rejected for this reason;
  - 24% (930) were where the case fell outside of our remit;
  - 5% (206) were made by non-consumers.

We have seen a significant reduction in the number of enquiries refused due to the consumer failing to complain to the accredited business prior to contacting TMO, with only 342 declined for this reason in the current Reporting Period compared to 776 in the previous one, which is a positive reflection of the work undertaken on providing better information to consumers about the steps they need to take before raising an enquiry with us.

**Enquiry rejection reasons where TMO would ordinarily be able to consider the dispute**

Reason for enquiry rejection	1 October 2017 – 30 September 2018	1 October 2018 – 30 September 2019	1 October 2019 – 30 September 2020
Has not contacted accredited business	218	776	342
Frivolous or vexatious	2	0	4
Dispute is being, or has previously been, considered by another ADR entity or by a court	41	100	110
The value of the claims falls below or above monetary thresholds	0	0	7
More than 12 months	4	0	4
Dealing with such a dispute would seriously impair the effective operation of the body	0	0	0
<b>Total</b>	<b>265</b>	<b>876</b>	<b>467</b>

### Enquiry rejection reasons where TMO is not able to deal with the dispute

Reason for enquiry rejection	1 October 2017 – 30 September 2018	1 October 2018 – 30 September 2019	1 October 2019 – 30 September 2020
Full and final settlement previously accepted	3	6	0
Non-consumer	100	184	206
Trader not a Code-accredited business	2,093	2,426	2,809
Non-Code remit	715	813	930
Total	2,911	3,429	3,945

**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 has seen the investment in its service begin to pay off, as case handling times are reducing. This is borne out by the fact that our average case-handling time, between receiving a complete case file and reaching an outcome, came down to 97.6 days as can be seen below:

Territory	Average case-handling time
Domestic	97.6 days
Cross-border	N/A

Whilst this improvement is a good start, we would like to continue to see case-handling times reduce across our service – not just to meet the requisite timeframes, but also to ensure our service is as efficient, accessible and effective as possible. As such, TMO currently has a number of initiatives in place – both looking at our dispute resolution processes and our technology – to continue our progress and make our service useful, timely and user-friendly.

**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 have been five instances of non-compliance during this Reporting Period, one with a standalone accredited business and one with a group of accredited businesses.

The standalone business was referred to our Independent Compliance Assessment Panel ("ICAP") in November 2019, where expulsion was agreed. The group of accredited businesses was referred to ICAP in May 2020 and, again, expulsion was agreed. As such, all of the businesses concerned are no longer accredited to TMO and consumers have been given information to allow them to continue pursuing their complaints.

Such instances of non-compliance are rare and TMO is able to ensure the vast majority of consumers receive their award.

**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, with no enquiries progressing into cases during this Reporting Period.