

## THE MOTOR OMBUDSMAN

### New Car Code

### Audit - December 2018

#### Background information

The Motor Industry Code of Practice for New Cars is one of the most established Consumer Codes available to the public, having been launched in 1976 as the Motor Industry Code of Practice, and later endorsed by the Office of Fair Trading (OFT) in 2011.

The OFT brought in the new Consumer Codes Approval Scheme (CCAS) under the Enterprise Act 2002. Following the demise of the OFT, the CCAS is now administered by the Chartered Trading Standards Institute (CTSI).

The Code covers the majority of all new vehicle registrations in the UK.

The Motor Ombudsman (formally known as Motor Codes) has been approved by the Ombudsman Association (OA) to operate as an Ombudsman since November 2016. All Codes of Practice have since been adapted in line with Ombudsman processes with all accredited businesses migrated over from Motor Codes.

The Motor Ombudsman operates four Codes which have many similarities in the way in which they are managed, and the sanctions applied to accredited businesses who may breach a Code.

The four Codes are:

- The Motor Industry Code of Practice for New Cars
- The Motor Industry Code of Practice for Vehicle Sales
- The Motor Industry Code of Practice for Vehicle Warranty Products
- The Motor Industry Code of Practice for Service and Repair

Many businesses are accredited to more than one Code of Practice.

#### Audit process

A qualified Chartered Trading Standards Institute Practitioner from the Chartered Trading Standards Institute (CTSI) carried out a desktop audit. The audit was based on a detailed pre-audit questionnaire with a large volume of associated documents and the most recent Annual Report (2017) published on 5 December 2018.

The audit looked at the following key areas:

- The accredited business application process, including checks on prospective businesses

- Accredited business auditing content and processes
- Terms and conditions
- Marketing and advertising by accredited businesses
- Sanctions for non-compliant accredited businesses
- Customer service provision (including support for vulnerable consumers)
- The consumer complaints process (ADR)
- Customer satisfaction
- Training provided by Code members to meet their obligations
- Outstanding issues from the 2017 audit

## **Audit summary**

### **Summary**

The Code continues to provide efficient and effective consumer protection in the automotive sector.

### **New accredited businesses**

In most cases, an applicant will make contact with TMO by email or phone where they will liaise with a member of the Businesses Services department who will answer any questions regarding the application process. Following the conversation, an application form is issued.

Once the business has returned their completed application form, a member of the Business Services department will review the information provided and conduct a pre-check of the business.

Assuming this assessment does not flag up any concerns, the application will be processed with the business marked as a provisional accredited business (new applicant). The application will then be passed to the Compliance team who will work with the business in completing an evidence-based self assessment.

Once the business has passed their self-assessment, they will be fully accredited to The Motor Ombudsman, and will receive a Welcome Pack which contains their Certificate of Accreditation and promotional items to advise consumers of their commitment to the Code.

### **Existing accredited business inspections/audit**

The audit process is carried out through a combination of self assessments and physical on-site audits.

Businesses accredited to the Code sign compliance documents on an annual basis. Code members are also requested to attend at least one Committee meeting a year which is an additional way to monitor industry trends, best practice and the outlook for the sector.

The compliance programme for the Code requires a physical audit to be carried out on an accredited business at least once every five years. To make sure that this target is achieved, TMO has established systems in place to report on the audits once completed, and will be exploring other options to increase coverage of the physical audits in 2019 to further improve the effectiveness and strength of TMO's compliance processes.

It was reported in 2018 that two physical audits were carried out, which is in line with the numbers expected, given the relatively low number of businesses which are accredited to the New Car Code.

The annual self assessment has now been aligned with the annual renewal documentation.

### **Accreditation withdrawal and sanctions for non-compliant accredited businesses**

Accredited businesses receive penalty points for instances where they fail to comply with the adjudication process. Some of these points may be awarded to the business for a relatively minor infringement, for example failing to respond to an adjudicator within the allotted time period due to an absence from the business. In such instances, an adjudicator can opt to remove penalty points should they feel the mistake to be genuine and a one-off.

For continued instances of non-compliance, businesses will continue to receive penalty points until they reach a total of 42. At this point, the matter will be passed to The Motor Ombudsman's Compliance team who will investigate the cause of the non-compliance directly and add the business to TMO's Closer Scrutiny log.

At the time of writing, there are three New Car Code businesses who have received six or more penalty points within the last 12 months for failing to respond to individual cases within the required timeframes.

Should these instances of non-compliance continue, the business will be referred to TMO's Independent Compliance Assessment Panel (ICAP) who will consider the appropriate sanction which could be a further warning, suspension or expulsion.

### **Marketing and advertising by accredited businesses**

All new businesses accredited to the New Car Code receive a Welcome Pack, which includes the essential information they need to know about the Code of Practice as well as The Motor Ombudsman documentation that they require in order to be compliant.

### **Terms and conditions and other pre-contractual information**

The Code requires accredited businesses to display TMO's logo and contact information on their website. In 2018, guidance has been circulated for wording to best advise consumers where to direct their complaint. To better monitor this coverage, TMO has developed a Smart Badge (following guidance previously

received from CTSI) that provides analytical data on how widely it is being used. Another benefit of the Smart Badge is that it allows consumers to 'click to verify' that a business's accreditation is still active. This gives consumers instant peace of mind that they can turn to TMO should the need arise.

Within the self assessment, TMO asks businesses to confirm that they have the logo referenced on their website. This not only helps to promote their accreditation to consumers, but also acts as a reminder to staff of their commitment to the Code/s. Whilst the deployment of the Smart Badge has not been as effective as TMO would have hoped, they are looking to push forward with this in 2019 to increase logo usage amongst accredited businesses, and tackle instances of misuse.

### **Customer service provisions**

GDPR requirements have been addressed, as have the changes required by the Consumer Rights Act (CRA) 2015.

TMO has developed e-based training modules for accredited businesses on key legislation such as the CRA and ADR regulations. These courses have proved to be a popular and effective way of educating staff on core legislation affecting the industry without the need for staff to physically attend a classroom. As the training has been developed directly with TMO (in partnership with CTSI), it is automotive specific, which only adds greater value to its content for users.

TMO has also developed a policy to help assist vulnerable customers. This has been discussed at Committee meetings and shared as an example of best practice to be adopted. If necessary, this can be tailored by businesses to assist staff in dealing with customer queries.

Away from fixed or planned training that TMO operates, the body's Information Line provides information to consumers and businesses alike on their legal rights or obligations. It is manned by TMO's customer service advisors who have all undergone automotive specific legal training, and its experienced team of adjudicators possess a legal degree as a minimum standard.

On a similar note, TMO's adjudicators and in-house ombudsman regularly provide recommendations for training or amendments to existing policies within their rulings. This proves effective in highlighting how amendments to policy or further training can be beneficial to businesses as it comes at the end of a dispute which acts as the 'case in point'. This also helps TMO to meet one of its core ambitions of driving industry standards through the operation of its Codes. This is likely to become more widespread in 2019 on the back of further system developments that will enhance TMO's data capturing abilities and allow for targeted communications to provide helpful guidance to businesses.

### **Consumer complaints process**

The ADR function at TMO is 100% in-house and the complaints process is included in the Code of Practice booklet, alongside TMO's contact details.

The consumer journey is managed by TMO throughout. Consumers will first liaise with a customer service advisor by either post telephone or email who will assess the dispute to see if it falls within TMO's remit. If TMO cannot deal with the dispute, an enquiry is logged for monitoring purposes and the consumer is signposted to other organisations. If TMO can take on the case, a case file is created and an enquiry form sent to the consumer. This form enables TMO to collect relevant details about the complaint – consumers will complete it and send it back with any documentation they would like TMO to consider. Upon receipt, an adjudicator will check that TMO has all of the information they need, as well as verifying it does fall within remit, and will then send the complaint to the business for their response.

Once both sides of the story have been received, the adjudicator will assess the complaint and either try and find an amicable resolution or deliver an outcome. If either party is unhappy with the outcome, the complaint will be referred to the ombudsman. Both parties can submit additional information if they wish, and the ombudsman may investigate the complaint further, before reaching a final decision. If the consumer accepts the final decision, it becomes legally binding on the accredited business.

TMO is certified as an approved ADR body under the ADR Regulations and has been since the Regulations came into force in 2015. In February 2018, TMO underwent and passed an audit to continue as an approved ADR body, with the next audit due in Q1 2019.

TMO is also approved by the Ombudsman Association through to 2021 when their revalidation procedure will be due.

### **Customer satisfaction and feedback**

Consumers can leave feedback about their car purchasing experience on the New Car Code page of the TMO website. They simply need to find the manufacturer they would like to review and complete a short survey. This has only been operating since 2018 with limited success so far. TMO is therefore looking at ways to obtain greater levels of customer feedback in 2019.

A summary of all aggregated customer feedback is reported on, on a yearly basis, and is presented within the ICAP and Annual Reports.

<p><b>Recommendation</b> TMO should continue to explore ways to obtain customer feedback about new car manufacturers.</p>
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### **Conclusions**

The Motor Ombudsman operates an impressive system to provide protection for consumers in the new car sector. It handles a large number of complaints, but this is inevitable having regard to the number of annual car sales. The Motor Ombudsman has a clear vision of improvements set out in their five-year business plan.