

THE MOTOR OMBUDSMAN

Vehicle Sales Code

Audit December 2018

Background information

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

The Vehicle Sales Code is the newest of the TMO Codes, having been approved by CTSI in 2017.

The Motor Ombudsman, formerly known as Motor Codes, has been approved by the Ombudsman Association (OA) to operate as an Ombudsman since November 2016. All Codes 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 members who breach a Code.

The four Codes are:

- The Motor Industry Code of Practice for New Car
- 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.

Audit process

A qualified Chartered Trading Standards Practitioner from the Chartered Trading Standards Institute 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 5th 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 process;
- 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; and
- Outstanding Issues from the 2017 audit.

Audit summary

Summary

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

New accredited businesses

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

In 2019, TMO plans to start taking applicants via the website so businesses can start the process outside of standard working hours – a development that may help independent businesses (which tend to have smaller staffing levels) gain accreditation to the Code.

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 the assessment doesn't flag up any concerns, the application will be processed with the business marked as a provisional accredited business (a new applicant). The application will 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, the business will be fully accredited to The Motor Ombudsman and will receive their Welcome Pack.

Existing accredited business inspections/audit

The audit process is carried out through the online self assessment and the physical on-site audits.

Business accredited to the Code sign compliance documents on an annual basis. Businesses accredited to the Code are 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 physical audits to be carried out on an accredited business at least once every five years. To make sure this target is achieved, TMO has established systems in place to report on the audits once they are 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 the 2017 audit that there was a backlog of self-assessments and on-site audits. In 2018 TMO conducted 90 self-assessment audits. It was reported that the focus for physical audits was on businesses accredited to the Service and Repair Code, so there is still a backlog. However, the five- year business plan undertakes to have all businesses audited within a five-year cycle.

Recommendation: As reported, TMO should continue to explore ways of increasing the physical audits on accredited businesses, and to improve the effectiveness of their compliance process.

Accreditation withdrawal and sanctions for non-compliant businesses

During the 2017 audit, the practice of withholding a vehicle history on fleet cars was discussed. During 2018, 75 out of the 1,911 contacts were on this subject. It's a clear breach of the Code to withhold information. TMO therefore arranged for legal training to be delivered and provided best practice guidance. Its an area that will continue to be monitored.

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 be genuine and a one off.

For continued instances of non-compliance, a business will continue to receive penalty points until they have reached 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 the Closer Scrutiny log.

At time of writing, there are four businesses who have received six or more penalty points within the last 12 months.

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 that are successful in gaining accreditation to the Vehicle Sales 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 they require in order to be compliant.

Terms and conditions and other pre-contractual information

All businesses accredited to a Code of Practice must have copies of the Code and Consumer Guides on site, which they confirm as part of their self-assessment, as does ensuring that their certificate is publicly displayed in their reception area.

Additionally, all businesses must have terms and conditions. To assist businesses with ensuring they have the required items, TMO has a range of products available to buy through its online Code Shop. They also have a range of signage and stickers available to purchase which include the TMO and Approved Code logo to allow businesses to promote their accreditation.

TMO requires accredited businesses to display its logo and contact information on their website and has previously circulated (via their monthly newsletter) best practice for wording which also forms part of the Welcome Pack. To better monitor this coverage, TMO has developed a Smart Badge following guidance from CTSI that provides analytical data on how widely used it is. Another benefit of the Smart Badge is the ability to 'click to verify' that a business's accreditation is still active. This provides consumers with instant peace of mind that they can turn to TMO should the need arise.

Customer service provisions

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

TMO has developed e-based training for accredited businesses on key legislation such as the CRA and Alternative Dispute Resolution directive. The training has proved a popular and effective way of training staff on the 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 TMO members.

As part of the self-assessment, TMO checks that all businesses have undertaken some form of ADR training.

Within the self-assessment, TMO asks businesses to provide a complaints log. This, like many of the questions, includes a reference as to why it is important for a business to have / comply, and the benefits of doing so will bring. With the example of the complaints log, TMO actually provides a simple illustration for accredited businesses that can be downloaded directly from the assessment and be kept for best practice. TMO has recommended this to a majority of their businesses who might not necessarily have a robust complaints log.

Similarly, within the assessment, TMO asks the business to confirm that they have the logo referenced on the website and the certificate displayed on the premises. 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 this has not been as effective as TMO would have hoped, they are looking to push for this in 2019 to increase logo usage and tackle misuse of logos.

Recommendation The drive to increase the correct use of logos during 2019 is supported and should further promote the Code to consumers.

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

Away from fixed or planned training, TMO operates an Information Line which provides information to consumers and businesses alike on their legal rights or obligations. This Information Line is manned by TMO's customer service advisors who have all undergone automotive specific legal training. In addition, their experienced team of adjudicators all 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 has proved 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 always driving industry standards up by the operation of its Code of Practice. 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 hopefully allow for targeted communications to businesses that promote guidance which could prove helpful to them.

Consumer complaints process

The ADR function at TMO is 100% in-house, and the complaints process is included within 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 e-mail 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, 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 to find an amicable resolution, or deliver an outcome. If

either party is unhappy with the decision, 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 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 validated through the Ombudsman Association through to 2021 when TMO will go through the Ombudsman Association's revalidation procedure.

Customer satisfaction and feedback

Consumers can leave feedback about their garage experience on The Motor Ombudsman's website. They simply need to find the garage they would like to review on the Garage Finder, and then click the "Rate" button. This will autofill the garage's details. Alternatively, they can search for the garage on the review webpage.

Customer feedback is available for all to see on each business's profile page listed on the Garage Finder. The recommendation score and the overall satisfaction score is visible, as is any commentary.

To encourage consumer feedback, TMPO offers the chance to be entered into a quarterly prize draw to win £500 in Lifestyle Vouchers.

To promote the survey, TMO gives three sheets of survey stickers to all new businesses in their Welcome Pack which mentions the prize draw. The idea is that they can place the sticker on customer invoices. Additionally, TMO sells posters promoting the survey and the prize draw in the TMO Code Shop.

On social media, and on Facebook and LinkedIn in particular, TMO actively promotes a link to the survey, as well as sponsoring adverts to reach a wider audience. TMO also uses banner advertising on the Google Advert exchange with a link to the survey, to encourage consumers to leave a review. Whenever someone wins the prize, TMO announces this on their website and also actively shares the story on social media.

During 2018, TMO launched a new booking enquiry service, where consumers could message garages through the TMO website with their requirement or enquiry. 30 days after the initial enquiry, the consumer is then emailed and invited to leave an online review.

A summary of all customer feedback is reported on in aggregate annually, and is presented within the ICAP and Annual Reports.

Conclusions

The Motor Ombudsman operates an efficient system to provide protection for consumers in the vehicle sales sector. It handles a large number of complaints, but this is inevitable given the high volume of transactions. The Motor Ombudsman has a clear vision of improvements set out in their five year business plan.