

THE MOTOR OMBUDSMAN

Vehicle Sales Code

Audit - December 2023

Background information

The Motor Industry Code of Practice for Used 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 Vehicle Sales Code was approved by CTSI in 2017.

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

The pandemic placed many hurdles for the motor industry, which has continued to operate sales both onsite and remotely with an associated increase in remote and online sales.

The Government announcements on the ban on conventional combustion engines will no doubt provide further challenges to the motor industry.

There are no planned changes to the Code in 2024 on the way in which it operates, although the TMO is looking to continue its development and improvement of its internal processes.

Audit process

A qualified Chartered Trading Standards Institute Practitioner from the Chartered Trading Standards Institute (CTSI) carried out a remote 'desktop' audit. The audit was based on a telephone conversation with relevant staff and examining associated documents.

- 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
- Any outstanding issues from the 2022 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 initiate contact with TMO by email or phone. 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 applicant will then submit an evidence-based self-assessment demonstrating they meet the entry criteria of the Code.

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.

There were 3419 members of the Code, during 2023, with 211 new admissions.

Existing accredited business inspections/audit

Following the Covid pandemic the audit process is now carried out through by self-assessments. On-site audits were carried out on a sample of accredited businesses by the AA throughout the year however none were carried out in 2023.

TMO are currently working with some manufacturers to audit and assess their retail networks. These are expected to be completed by the end of the year with a corresponding increase in numbers of audits.

Audits are now achieved by a self-assessment process aligned with the member renewal date. If an intervention is considered appropriate this is normally done by a face-to-face visit to resolve any issues.

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.

870 remote audits were completed, which equates to 25% of Code members.

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 or compliance processes. 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.

The system issues a written warning one for 30 points, written warning two for 60 points, and at 80 points 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, extended-suspension or expulsion from the Code.

Suspension can be applied at any time at the discretion of the TMO if the business refuses to co-operate and can result in automatic suspension.

At the time of writing, there were 102 members in the disciplinary process.

Marketing and advertising by accredited businesses

All new businesses accredited 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 that they require in order to be compliant.

E-Training is available to all code members through webinars and a virtual classroom. Subjects include ADR, Consumer Rights, Distance Sales and GDPR. All modules are specifically tailored to the motor industry.

TMO sends out email newsletters (Engage) and tailored emails informing businesses about the latest news from The Motor Ombudsman, industry insights and

developments. They also regularly include information about the importance of showing the TMO and Approved Code logo as well as best practice.

The Motor Ombudsman regularly checks its accredited business websites to ensure they are displaying the Motor Ombudsman and Approved Code logo, and receive the quarterly audit results from the Consumer Codes Approval Scheme which are acted upon for those business found not to be displaying the logo.

Throughout the year TMO issues several press releases to both consumer and trade media, and regularly provides guest articles for trade publications highlighting areas of best practice and industry insights. The success, reach and impact of The Motor Ombudsman's campaigns are measured through monitoring of website hits, social media reach and PR coverage generated.

Whilst businesses accredited to this Code do not attend TMO committees, many are franchised to a manufacturer who will regularly attend TMO Customer Service Committee (CSC). The Committee agenda includes workshops on consumer law, case data and trends and information obtained from various external bodies on best practice such as the Ombudsman Association's casework group, which TMO attends, or guidance from the ASA impacting the industry. These topics are also covered during account management meetings, and during training sessions or workshops held by TMO for accredited businesses.

TMO also has found good success in developing seasonal campaigns to raise awareness amongst consumers and increase engagement and provide value for its accredited business.

TMO has also utilised webinars as a good medium for providing direct and personalised training to businesses who are further afield.

On a case-by-case basis, TMO provides information on the law, entitlements and obligations to businesses and consumers alike through our ADR team. The entire team has undergone industry-specific legal training along with technical training. The majority of the positions require a legal degree or extensive ADR experience as an entry requirement.

Terms and conditions and other pre-contractual information

The Code requires accredited businesses to display TMO's logo and contact information on their website. 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. The deployment of the Smart Badge continued during 2023 to increase logo usage amongst accredited businesses, and tackle instances of misuse. The use of logos forms part of both remote and onsite audits.

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 Consumer Rights Act and Alternative Dispute Resolution (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, their 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.

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 became more widespread on the back of further system developments that enhanced 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 managed 100% in-house and the complaints process is included in the Code of Practice booklet, alongside TMO's contact details.

The consumer's 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. 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 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 and is a member of the Ombudsman association.

Customer satisfaction and feedback

Consumers can leave feedback about their car purchasing experience on the TMO website. They simply need to find the dealer they would like to review and complete a short survey. This has been operating since 2018 and TMO are exploring ways to obtain greater levels of customer feedback including prize draws for completed feedback.

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

Conversations have been held between TMO and various manufacturers over obtaining copies of their own Customer Satisfaction Intelligence (CSI) data. Restrictions under the GDPR have slowed progress in this regard but TMO remains confident of obtaining this information in due course.

Conclusions

The Motor Ombudsman operates an impressive system to provide protection for consumers in the used car sector. It handles a large number of complaints, but this is inevitable having regard to the number of annual car sales. This takes account of the trends in used car sales to online sales and fully and hybrid electric vehicles. The move to self-assessment with targeted intervention is considered to be an effective way of monitoring the Code.