

Q&A on The Motor Ombudsman

Version 1.0: 01 November 2016

CONTENTS

1. DEFINITION AND ROLE OF AN OMBUDSMAN SCHEME	
1.1: What is an ombudsman?	3
1.2: What are the main features of an ombudsman scheme?	3
2. BACKGROUND TO THE MOTOR OMBUDSMAN	
2.1: What is The Motor Ombudsman?	4
2.2: Where is The Motor Ombudsman based?	4
2.3: Why has The Motor Ombudsman been introduced?	4
2.4: Is this the first time ever that the automotive industry has had its own Ombudsman?	4
2.5: What are the key services offered by The Motor Ombudsman?	5
2.6: How is The Motor Ombudsman funded?	5
2.7: How many businesses are accredited to The Motor Ombudsman?	5
3. MOTOR CODES AND THE MOTOR OMBUDSMAN	
3.1: Does Motor Codes still exist?	6
3.2: What principal steps did Motor Codes have to take to become The Motor Ombudsman, and what are the main differences between the two organisations?	6
4. KEY PEOPLE	
4.1: Who is the Chief Ombudsman and what is their role?	7
4.2: Who is the Ombudsman and what is their role?	7
4.3: Is a final decision from the Ombudsman binding?	7
4.4: What happens if a consumer doesn't accept the Ombudsman's final decision?	7
5. DIFFERENTIATION AND IMPARTIALITY	
5.1: How does The Motor Ombudsman differ from other providers of (ADR) in the automotive industry?	8
5.2: Is The Motor Ombudsman fully impartial?	8
6. ACCREDITATION TO CODES OF PRACTICE	
6.1: Which businesses can become accredited to a Code of Practice?	9
6.2: How do garages and car dealerships become accredited to The Motor Ombudsman's Service and Repair and Vehicle Sales Codes of Practice?	9
6.3: What are the costs of becoming an accredited member of a Code of Practice?	9
6.4: Can The Motor Ombudsman still assist consumers if the business is not accredited to a Code of Practice?	10
6.5: What happens if the business is not accredited to The Motor Ombudsman?	10
7. DISPUTE RESOLUTION	
7.1: How does a consumer raise a dispute, and what does it cost?	10
7.2: How long does it take to resolve a consumer dispute?	10
8. BENEFITS FOR CONSUMERS AND ACCREDITED BUSINESSES	
8.1: What are the key benefits of The Motor Ombudsman for consumers and accredited businesses?	11

9. LOOKING FORWARD

9.1: How does the recent outcome of the EU referendum affect The Motor Ombudsman and ADR legislation by which it is governed?	12
9.2: Will further Motor Industry Codes of Practice be introduced going forward?	12
9.3: How many enquiries are set to be handled by The Motor Ombudsman in 2017?	12
9.4: Where can consumers and accredited businesses find out more information about The Motor Ombudsman?	12

1. DEFINITION AND ROLE OF AN OMBUDSMAN

1.1: What is an ombudsman?

A: An ombudsman is an impartial body that considers consumer complaints about a variety of issues relating to organisations in both the private and public sectors. It is tasked with reaching outcomes for both parties which are fair and reasonable as an alternative to going to court.

1.2: What are the main features of an ombudsman scheme?

A:

- ☑ It resolves complaints made by a consumer against a public body or commercial business. It is not a regulator, though some of their decisions may be seen as precedents and have wider effect
- ☑ Its procedures are designed to redress the difference between the resources and expertise available to the consumer and those available to the body/business
- ☑ It's free for consumers, and they are not at risk of an order for costs. It handles enquiries as well as complaints, because dealing with an enquiry may head off a complaint (for example, by resolving a misunderstanding)
- ☑ The consumer first complains to the body/business, accessing the ombudsman scheme if dissatisfied with the body/business's response (or if it does not respond within a reasonable time)
- ☑ When dealing with complaints, an ombudsman scheme seeks to achieve a fair resolution at the earliest possible stage – rather than working towards an assumed future hearing
- ☑ An ombudsman scheme uses flexible and informal procedures – resolving cases by mediation, recommendation or decision as appropriate
- ☑ An ombudsman scheme doesn't just rely on the evidence the parties volunteer. It actively investigates cases (using specialist expertise) – calling for the information they require
- ☑ The outcome is not affected by how well either of the parties presents his/her/its case, and representation by lawyers (or others) is not necessary
- ☑ It's recommendations/decisions are based on what is fair in the circumstances, taking account of good practice as well as law
- ☑ It publicly feeds back the general lessons from cases it has handled, so stakeholders (including government/regulators) can take steps to improve things for the future
- ☑ Because there is a flexible and informal process, and representation is not necessary, the costs of an average ombudsman case are significantly less than an equivalent case in a court or tribunal

2. BACKGROUND TO THE MOTOR OMBUDSMAN

2.1: What is The Motor Ombudsman?

A: The Motor Ombudsman is *the* automotive dispute resolution body. It is the first voluntary and fully-impartial private sector ombudsman that provides a self-regulatory environment for the automotive industry using its Chartered Trading Standards Institute (CTSI)-approved Motor Industry Codes of Practice.

The Motor Ombudsman complements consumer law rather than being a substitute for it.

The Motor Ombudsman is **NOT:**

- A consumer or industry champion
- A regulator
- A government-backed watchdog
- The voice of the automotive industry

2.2: Where is The Motor Ombudsman based?

A: The Motor Ombudsman is based in Westminster, London.

2.3: Why has The Motor Ombudsman been introduced?

A: The Motor Ombudsman provides an authority for the first time for the resolution of disputes within the motor industry for those that cannot be solved directly between a consumer and trader. It also brings adjudication and the issuing of a final decision by the Ombudsman in-house, and its services are free of charge to the consumer. It also avoids accredited businesses and consumers having to consult an external organisation if the dispute goes beyond adjudication.

A secondary objective of The Motor Ombudsman is to continue to drive even higher standards of service, as well as a greater level of consumer trust in independent garages and franchised dealers through its Codes of Practice.

2.4: Is this the first time that the automotive industry has had its own Ombudsman?

A: Yes it is, and therefore it's a significant development for consumers and the motor industry.

2.5: What are the key services offered by The Motor Ombudsman?

A: The Motor Ombudsman:

- ✓ **Provides** the most comprehensive and detailed Codes of Practice for the automotive sector. They have been designed to ensure that accredited businesses operate to high standards, whilst The Motor Ombudsman's Codes of Practice also offer consumers the greatest level of protection during the buying and vehicle ownership experience. They are all Chartered Trading Standards Institute (CTSI)-approved
- ✓ **Guides** consumers and accredited businesses through the entire Alternative Dispute Resolution (ADR) process, from adjudication through to a final ombudsman decision, all in-house
- ✓ **Saves** consumers money as the entire ADR process is free of charge
- ✓ **Cuts** costs for businesses by providing quick and fair resolutions, and helps to avoid unfounded consumer claims, and ultimately, the courtroom
- ✓ **Supplies** information to consumers and accredited businesses on disputes alongside the adjudication process
- ✓ **Provides** access to online resources. For example, the 'Garage Finder' on The Motor Ombudsman website (www.TheMotorOmbudsman.org) allows consumers to view feedback and find their nearest Motor Ombudsman accredited garage quickly and easily. There is also an online vehicle recall database and a list of suspended and expelled garages and dealers
- ✓ **Conducts** marketing and PR initiatives to drive increased awareness of the benefits of The Motor Ombudsman to consumers and accredited businesses

2.6: How is The Motor Ombudsman funded?

A: The Motor Ombudsman is fully impartial, and is funded by fees paid for by its accredited businesses who are made up of vehicle manufacturers, vehicle warranty product providers, independent garages and franchised dealers who have signed up to one or more of The Motor Ombudsman's four Chartered Trading Standards Institute (CTSI)-approved Motor Industry Codes of Practice.

2.7: How many businesses are accredited to The Motor Ombudsman?

A: There are currently around 7,500 accredited businesses across the four Codes of Practice that are offered by The Motor Ombudsman, and this figure is expected to grow significantly as a result of the introduction of the new body.

3. MOTOR CODES AND THE MOTOR OMBUDSMAN

3.1: Does Motor Codes still exist?

A: On 01 November 2016, Motor Codes changed its status and trading name to The Motor Ombudsman.

3.2: What principal steps did Motor Codes have to take to become The Motor Ombudsman, and what are the main differences between the two organisations?

A: Motor Codes had to complete the following, amongst other key steps, to become The Motor Ombudsman and gain approval from the Ombudsman Association:

- Appoint a Chief Ombudsman
- Recruit an Ombudsman
- Appoint additional Non-Executive Directors to The Motor Ombudsman board to ensure the majority are from a non-automotive background, thereby helping to ensure impartiality. This also applies to representation in a board meeting
- Amend the Codes of Practice to include a clear explanation of how consumers access The Motor Ombudsman complaints process. They are available to view and download from The Motor Ombudsman website (www.TheMotorOmbudsman.org) to ensure total transparency and visibility for consumers and accredited businesses
- Remove external fee-paying 'arbitration' and bring the entire case-handling procedures in-house, and in-line with ombudsman processes and terminology
- Publish a step-by-step guide to the handling of complaints

Under Motor Codes, arbitration was previously at a cost to both consumers and accredited businesses via an external third party. However, The Motor Ombudsman handles the entire dispute resolution process in-house, meaning that a consumer can receive a 'final decision' (previously known as arbitration) free of charge from the ombudsman. This is binding if they are in agreement with it.

The case negotiation process was previously called 'conciliation', but this is now known as 'adjudication' in-line with ombudsman processes.

4. KEY PEOPLE

4.1: Who is the Chief Ombudsman and what is their role?

A: Bill Fennell is the Chief Ombudsman and the Managing Director of The Motor Ombudsman. The Chief Ombudsman is a statutory appointment made by the Board of Directors of The Motor Ombudsman, and Bill has ultimate responsibility for the operation of The Motor Ombudsman scheme, including overseeing the annual business plan and budget management. He is also tasked with liaising with key stakeholders, overseeing casework policy, ensuring casework quality, and ensuring that all activities are compliant with ombudsman processes, amongst other requirements.

4.2: Who is the Ombudsman and what is their role?

A: Natasha Gasson, a graduate in law with experience in alternative dispute resolution, is the Ombudsman, and her primary responsibility is to review cases and issue a final decision if they have not been resolved through the adjudication process.

The Ombudsman is also responsible for providing information to accredited businesses on consumer law and complaint management, developing and improving the alternative dispute resolution process and keeping abreast of relevant legislative and regulatory changes, amongst other tasks.

4.3: Is a final decision from the Ombudsman binding?

A: The final decision from the Ombudsman is binding if the consumer accepts it. If the decision goes in the consumer's favour, the accredited business must then award what the customer is due as they have agreed to The Motor Ombudsman's Terms and Conditions.

4.4: What happens if a consumer doesn't accept the Ombudsman's final decision?

A: If the consumer doesn't accept the final decision, it's not binding. In this instance, they are then free to pursue their case in a court of law, but the Ombudsman's decision may still be taken into account when a judgement is delivered.

5. DIFFERENTIATION AND IMPARTIALITY

5.1: How does The Motor Ombudsman differ from other providers of Alternative Dispute Resolution (ADR) in the automotive industry?

A: The Motor Ombudsman operates exclusively within the automotive industry, and provides industry-specific expertise and knowledge. It is also founded on eight years' experience of resolving disputes in the automotive sector. To deliver fair and consistent resolutions, The Motor Ombudsman considers both consumer legislation and its Motor Industry Codes of Practice. These are the most comprehensive in the sector, and have the largest number of accredited garages and franchised dealers of any ADR provider

In addition, for continued consistency, the entire dispute resolution process, from adjudication to a final decision, is in-house, and it is at no cost to the consumer.

5.2: Is The Motor Ombudsman fully impartial?

A: Yes. The Motor Ombudsman represents accredited businesses and consumers in equal measure, and listens to both sides to deliver consistently fair outcomes.

To ensure total impartiality, and that all enquiries, requests for information and cases have been handled correctly, The Motor Ombudsman is overseen by the Chartered Trading Standards Institute's Consumer Codes Approval Board (CCAB), the Independent Compliance Assessment Panel (ICAP) and a board of Non-Executive Directors, where the majority are from a non-automotive background.

An annual report and separate ICAP report will be published every year to ensure transparency in relation to The Motor Ombudsman's activities.

6. ACCREDITATION TO CODES OF PRACTICE

6.1: Which businesses can become accredited to a Code of Practice?

A: Subject to meeting the application criteria and the necessary quality standards, organisations that can become a Motor Ombudsman-accredited business are as follows:

The New Car Code:

- Vehicle manufacturers only

The Service and Repair Code:

- Franchised car dealerships
- Independent garages (including fast-fit specialists and MOT stations)

The Vehicle Sales Code:

- Franchised car dealerships
- Independent used car outlets
- Service and repair garages that also sell used cars

The Vehicle Warranty Products Code:

- Vehicle warranty providers only

6.2: How do garages and car dealerships become accredited to The Motor Ombudsman's Service and Repair and Vehicle Sales Codes of Practice?

A: They can apply for accreditation by submitting an application through The Motor Ombudsman website, followed by the completion of an online self-assessment. This is checked thoroughly by The Motor Ombudsman to ensure compliance, and proof of documentation must be supplied by the business within 30 days of their application to satisfy all of the rigorous screening and quality criteria. Once the accreditation has been approved, and is live, they will then be vetted by on-site spot checks to ensure that they are continuing to meet requirements prescribed by the Chartered Trading Standards Institute (CTSI).

6.3: What are the costs of becoming an accredited member of a Code of Practice?

A: The cost of annual accreditation to a single Code is **£195+VAT**. The cost to gain accreditation to a second Code if a business is already accredited is **£99+VAT** per year. The cost of dual accreditation is **£294+VAT** per annum.

Businesses are able to subscribe to more than one Code of Practice, if relevant, as long as they meet the necessary criteria.

If the final decision from the ombudsman goes against the accredited business following a breach of the Service and Repair Code or Vehicle Sales Code, and where the business has not made any attempt to resolve the issue, they will be required to pay **£99+VAT** per case.

6.4: Can The Motor Ombudsman still assist consumers if the business is not accredited to a Code of Practice?

A: The Motor Ombudsman will not be able to take on a complaint about a business which is not accredited to its Code of Practice, but can provide information and signpost consumers to other organisations such as the Citizens Advice Bureau.

6.5: What happens if the business is not accredited to The Motor Ombudsman?

A: If a business is not accredited, The Motor Ombudsman can point consumers in the right direction for where to go next such as the Citizens Advice Bureau.

7. DISPUTE RESOLUTION

7.1: How does a consumer raise a dispute, and what does it cost?

A: The first thing for a consumer to do is to check that the business that they have a dispute with is accredited to The Motor Ombudsman. They can find this out by entering the name of the organisation into the Garage Finder on The Motor Ombudsman website (www.TheMotorOmbudsman.org) or by asking the business concerned. A consumer must have given the garage up to eight weeks to respond in writing to a complaint before approaching The Motor Ombudsman.

If the business is accredited to The Motor Ombudsman, and the issue falls within its Codes of Practice, the case will go to an adjudicator who will make a fair decision after taking into account both sides of the argument. If the consumer or accredited business does not accept the outcome from the adjudicator, the case

7.2: How long does it take to resolve a consumer dispute?

A: This varies depending on the complexity of the case. Some complaints will be suitable for a swift early resolution by an adjudicator, and so can take just five working days (maximum). For complaints where adjudication is required, it can take up to 90 days for a decision from when it accepts the complaint. The full

dispute resolution process can be found on The Motor Ombudsman website (www.TheMotorOmbudsman.org).

8. BENEFITS FOR CONSUMERS AND ACCREDITED BUSINESSES

8.1: What are the key benefits of The Motor Ombudsman for consumers and accredited businesses?

A: For **consumers**, they are namely:

- ☑ The entire process is free of charge, from the raising of a case through to the awarding of a final decision
- ☑ Added peace of mind that they are dealing with a reputable and trustworthy organisation and that they have someone to turn to in the event that a dispute cannot be resolved directly with a motor trader
- ☑ The ability to leave transparent feedback and recommendations on garages and dealers that they have dealt with
- ☑ Access to genuine online reviews and ratings on The Motor Ombudsman Garage Finder to make an informed decision for servicing, repairs and the purchase of a vehicle
- ☑ Free use of online resources such as the vehicle recall database

For **accredited businesses**, they are namely:

- ☑ It is cost effective - the accreditation fees are likely to be less than the legal fees if a case went to court
- ☑ ADR and a final decision is only paid for if the final decision is not in their favour and they have been unable to demonstrate any attempt at resolving the dispute
- ☑ Access to consistent and fair adjudication which is delivered completely in-house based on the Codes of Practice and relevant legislation, in the event that a dispute with a customer cannot be resolved internally
- ☑ Adhering to one or more of The Motor Ombudsman's Codes of Practice, helps to raise standards and encourages the use of The Motor Ombudsman's dispute resolution service to solve customer complaints, as a last resort
- ☑ The ability to display the Motor Ombudsman and CTSI-Approved Code logos on their premises and corporate literature
- ☑ Tailored information from The Motor Ombudsman's legally-qualified and highly-experienced team of adjudicators
- ☑ A free company listing on the Garage Finder and CTSI websites to drive increased footfall
- ☑ Access to online training courses in Alternative Dispute Resolution and the Consumer Rights Act 2015 which have been developed with the CTSI. Both training courses are CPD certified, and modules can be stopped and started to suit an individual's workload (i.e. they are SCORM-compliant)

9. LOOKING FORWARD

9.1: How does the recent outcome of the EU referendum affect The Motor Ombudsman and ADR legislation by which it is governed?

A: It's business as usual for The Motor Ombudsman until the organisation is informed otherwise. The Motor Ombudsman is not aware of any changes to the ADR regulations which were adopted following the implementation of the European Directive on Alternative Dispute Resolution in the UK on 01 October 2015. The Motor Ombudsman will adhere to and advise accredited businesses and consumers on any relevant changes in legislation going forward to ensure that all parties remain compliant.

9.2: Will further Motor Industry Codes of Practice be introduced going forward?

A: The Motor Ombudsman will continue to review any requirements for additional Codes of Practice in line with industry demand, and further Codes will be introduced as appropriate.

9.3: How many enquiries are set to be handled by The Motor Ombudsman in 2017?

A: The Motor Ombudsman is expected to handle more than 30,000 enquiries from consumers, the current estimated volume for 2016.

9.4: Where can consumers and accredited businesses find out more information about The Motor Ombudsman?

A: They can visit **www.TheMotorOmbudsman.org** for more information, all contact details and copies of the four Codes of Practice.

ENDS