

## **Case Study 4: Commercial dispute over a car warranty**

**Type of dispute:** Commercial dispute over a car warranty.

**Time from mediation to result:** One individual session, two joint sessions and settlement session.

**Background:** Jack has run a successful second hand car business for the past 12 years and prides himself on providing top quality cars ranging from £1,000 - £4,000. As an added bonus, he gives all customers a three month warranty as standard. Katie Johnson recently purchased a Vauxhall Astra for £2,000 from Jack's garage, which seemed a great deal. Unfortunately, exactly three months after buying the car, it developed a banging noise, which ground the car to a halt. Katie had to be rescued from the motorway and the Astra was towed to a nearby garage. They told her that the engine was beyond repair and it would cost her £1,200, including labour, to have the Astra repaired.

Katie was unable to contact Jack's garage over the phone, so decided to settle the matter face to face, in a pledge to see how Jack could compensate her. After the two met, heated words were exchanged and Katie was escorted from the premises. Unhappy with the car, she decided to have an independent mechanic see what had caused the engine failure. He found that there was insufficient oil in the engine and suggested that the car had been run at high speeds, over long periods.

Katie contacted Trading Standards, who advised her on her rights and suggested mediation to resolve the problem.

**The challenge:** The challenge was to minimise the negative impact that Katie's complaint would have on Jack's business, as word of mouth is essential to his business. Another challenge was to ensure that Katie could afford a new car or pay to have the Astra fixed.

### **Objectives:**

- Avoid going to the small claims court
- Ensure that Katie is able find a means of transport
- Minimise the damage to Jack's reputation
- Agree on a fair compensation fee

### **Reason for conflict:**

**Katie's position:** At the time, the Astra was an absolute bargain, but after the engine problems, she felt 'ripped off'. Katie thought that the advice given about regularly checking the oil was something that Jack told everybody as a precaution. Her 20 year old son sometimes borrows the car, and tends to drive fast and at time recklessly.

The oil levels had not been checked, but that is something that the garage should have sorted before selling the car, thought Katie. Reminiscing about the incident at the showroom, Katie felt that she had acted badly, but thought that this was the only way to get Jack's attention. Katie told Jack that she would tell her story to the local newspaper and had already discussed this with a journalist. Katie's main aim was to get the Astra up and running as soon as possible, or alternately have a car, as she relies on it to get to work. Having spent £2,000 on a car, she couldn't afford to buy another, and does not have the funds to have the Astra fixed.

**Jack's position:** In order for Jack to make a fair profit, he sometimes has to purchase "Job lots" which was the case with the Astra. Having said this, Jack's mechanic had already replaced some parts and given it a full check. Jack vaguely recalls selling her the car and explicitly stating not to drive fast due to the new engine parts. He also warned her that cars over a certain age require slightly more attention and the oil and water should be checked regularly.

The second time that Jack saw Katie, she was causing a commotion on the garage forecourt in front of many customers. After unsuccessfully trying to calm Katie down, Jack was forced to ask her to leave.

As far as Jack is concerned, the independent mechanics reports, proves that the car was run erratically, and as the engine was not topped up with oil, it is her fault that the car's engine seized up. Jack wants to maintain his reputation, and with Katie threatening to go to the local papers, he was concerned that she would, especially after experiencing her previous behaviour in the showroom.

**Why mediation?** If Katie had wanted to take the matter to a small claims court, it would have cost her more in lawyer's bills and legal advice, than it would to pay for a new car. Mediation seemed like the sensible option and Jack was also very interested due to the confidentiality aspect. If this story was leaked to the papers or local news, he could have been branded a "Wheeler Dealer".

**Agreement and settlement:** After both parties had vented their frustrations, it was clear that neither were particularly bothered about the other's feelings. Jack agreed that although Katie was warned about the oil levels, he did not want an unhappy customer and offered to replace the engine free of charge. Katie agreed to this proposition, as she just needed to get her car back on the road. She also agreed not to contact the local press, as Jack had agreed to do the work for free.

(Please note that the identities of the disputing individuals have been altered, due to the confidentiality element mediation carries.)