

The complaint

Mr T is unhappy with how Motability Operations Limited (MO) dealt with his collection of a replacement vehicle following the end of his existing contract hire agreement.

What happened

Mr T had been supplied with a car through a contract hire agreement with MO. In March 2020, when this agreement was coming to an end, Mr T placed an order for a replacement vehicle, also through a contract hire agreement. He paid a £500 deposit to secure the order.

There was a delay in sourcing the replacement vehicle, partially caused by the national lockdown resulting from the coronavirus (Covid-19) pandemic. However, on 15 October 2020, the dealership contacted Mr T to let him know that the replacement vehicle would be ready for collection on 17 November 2020.

Another national lockdown affecting England was announced on 31 October 2020, imposed on 5 November 2020, and was scheduled to end on 2 December 2020. Mr T wanted to delay the collection until the lockdown had been lifted, as he didn't feel comfortable visiting the dealership, thought this would put him at risk medically, and thought it would cause him to breach the lockdown rules.

However, the dealership insisted that the collection take place as soon as possible. And told Mr T they had a 'click and collect' service, which would limit his contact with their staff. And MO said they could appoint an additional driver on the agreement who could collect the replacement vehicle on his behalf. The car was collected by one of Mr T's family members on 26 November 2020.

Mr T complained to MO about the pressure he was being put under to collect the replacement vehicle. MO investigated his concerns and offered him £100 for the trouble and upset he'd been caused. Mr T wasn't happy with this and brought his complaint to the Financial Ombudsman Service for investigation.

While Mr T had also raised other areas of complaint, he confirmed that he only remained dissatisfied with the collection arrangements.

Our investigator said he thought the dealership and MO had put undue pressure on Mr T to collect the replacement vehicle at a time when he was already feeling nervous about doing so. And he thought the offer to allow someone else to collect on Mr T's behalf, which wasn't offered until 19 November 2020, could've been made sooner. And, if it had, Mr T may've been able to make arrangements with a family member to do this earlier.

But the investigator also thought that MO and the dealership had acted reasonably by asking Mr T to pay the full advance payment, and sign the paperwork, before the end of November 2020. This was because the dealership was time restricted and they had another dealer wanting to take the replacement vehicle from them.

So, the investigator recommended that MO pay Mr T an additional £150, in addition to the £100 already offered, for the stress and inconvenience Mr T had been caused.

Mr T agreed with the investigator and provided additional comments to clarify how he felt. However, MO didn't agree. They said that Mr T didn't mention the stress and anxiety he had collecting the replacement vehicle when he spoke to them in October 2020, and this wasn't raised until he spoke to them on 10 November 2020.

They also said they didn't make the offer of someone else collecting on Mr T's behalf until 19 November 2020, because they thought Mr T had an agreement in place to collect the car in December 2020 up until this point. Because of this, they thought that the £100 already offered was fair and reasonable in the circumstances.

Because MO didn't agree with the investigator, this matter has been passed to me to make a final decision.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, I have reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and what I consider was good industry practice at the time. Mr T was supplied with a car under a contract hire agreement. This is a regulated consumer credit agreement which means we're able to look into complaints about it.

Having reviewed the evidence, I've seen MO's case notes for 10 November 2020 say that if Mr T *"does not want to/feel safe collecting vehicle we would not force him to collect vehicle."* The notes also say that Mr T was *"within [his] rights not to pick vehicle up until December."*

However, the case notes are also clear that the dealership wasn't happy with this approach. The dealership said it would be safer for Mr T to collect the car sooner as they had limited staff working during the lockdown, but they would return to full staffing once the lockdown ended. And members of the public would also be on site. So, it wouldn't be possible to maintain the same social distancing that was currently in place.

The dealership also indicated that, if Mr T refused to collect the replacement vehicle in November 2020, they would sell it to someone else.

Despite the assurances given by MO that Mr T didn't need to collect the replacement vehicle until December 2020, he was also told that he could arrange for someone else to collect on his behalf. Which is what eventually happened, with a family member collecting the replacement vehicle for Mr T on 26 November 2020.

Mr T was shielding during the lockdown and didn't feel safe visiting the dealership to do click and collect. And he wasn't prepared to breach any rules as he'd been told to stay at home by the Government. However, given the actions of the dealership and MO, he said he felt pressured into breaking the rules, putting himself at risk, and incurring a potential fine; or risk losing the car.

I've seen that MO said that Mr T didn't raise any of these issues with them when he spoke to them in October 2020 and didn't do so until 10 November 2020. However, the lockdown wasn't announced until 31 October 2020. So, Mr T wouldn't have had any concerns over the requirements to shield and stay at home during October 2020, because no such restrictions were in place. So, it's reasonable that he would only raise his issues with MO on the first occasion he spoke to them after the restrictions were put in place.

What's more, despite their notes saying that Mr T couldn't be forced to collect the car during the lockdown, and that he was within his rights to collect the car in December 2020; by pushing Mr T down the proxy collection route, MO didn't do this. Even though he was prepared (albeit reluctantly) to make the advance payment to secure the car before collection took place.

Given this, I'm satisfied that both MO and the dealership put undue pressure to collect the car in November 2020, when such a collection wasn't strictly necessary. As such, I'm satisfied that MO should do something to put this right.

Putting things right

MO have offered Mr T £100. And the investigator recommended that this should be increased to £250. MO have commented that they've already paid Mr T compensation for other issues. But these issues are unrelated to the undue pressure put on him to collect the car. So, I don't consider these payments relevant to this complaint.

For the reasons above, I'm satisfied that MO put undue pressure on Mr T, despite their case notes to the contrary. And, if it hadn't already been recommended, I'd be asking them to pay Mr T £250 for the impact it had on him.

So, MO should:

- pay Mr T the £100 they've already offered (if this hasn't already been paid), and
- pay Mr T an additional £150 for the impact of the undue pressure put on him to collect the car during a lockdown period.

My final decision

For the reasons explained, I uphold Mr T's complaint. And Motability Operations Limited must follow my directions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 18 August 2022.

Andrew Burford
Ombudsman