

The complaint

Ms S complains that Motability Operations Limited registered a car that was supplied to her under a hire agreement in her daughter's name which she says has caused issues with penalty charge notices.

What happened

A new car was supplied to Ms S under a hire agreement with Motability Operations that she electronically signed in January 2019. The agreement was for a minimum period of three years but the car was registered in the name of Ms S's daughter, who is a minor. Ms S complained to Motability Operations in September 2021 because the car had been clamped and Motability Operations wouldn't pay for a hire car. It said that there were two outstanding penalty charge notices so it issued a remedial default notice giving her seventeen days to address the fines and engage with the notice issuing authority. On appeal it retracted the notice but said that it had been notified about multiple outstanding penalty charge notices. It said that a failure to engage with the issuing authority and take responsibility for those fines would constitute a breach of the hire agreement. The registration of the car was transferred to Ms S in September 2021.

Ms S wasn't satisfied with its response so complained to this service. Our investigator recommended that her complaint should be upheld. He said that Ms S was responsible for any fines incurred during the agreement and he didn't think that Motability Operations had actively contacted any authorities to obtain information on parking fines or that it had done anything wrong about the penalty charge notices. He thought that the car being registered in the incorrect name had caused Ms S significant stress and inconvenience and he recommended that Motability Operations should pay her £150 to recognise the difficulties that its mistake had caused her.

Both Ms S and Motability Operations have asked for this complaint to be considered by an ombudsman. Ms S says that our investigator failed to mention that the car was placed in her minor daughter's name or that there'd been a breach of her terminally ill child's data. She says that she doesn't take liability for the parking fines as she didn't receive them and she had a home-help who dealt with these issues so she didn't open any letters. She says that the car was clamped and a letter was pushed under her door so she contacted Motability Operations but it didn't provide her with a hire car or pay for any taxis.

Motability Operations says that it appreciates the stress and inconvenience that Ms S has suffered, but doesn't agree that it's due to the car being incorrectly registered in her daughter's name. It says that that's due to the fines that she's incurred for parking illegally and its mistake had no bearing on that. It says that it rescinded the default notice to allow Ms S more time to address the fines and the car was towed due to the non-payment of fines.

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 agree with the outcome recommended by our investigator for these reasons:

- the car that was supplied to Ms S under the hire agreement was registered in the name of Ms S's daughter, who is a minor – that was clearly a mistake by Motability Operations which was corrected in September 2021 when the registration was transferred to Ms S;
- I've seen no evidence to show that Ms S had complained to Motability Operations about that issue until September 2021 and I consider that Motability Operations then acted correctly;
- I consider that registering the car in the name of Ms S's terminally ill daughter will have caused distress and inconvenience for Ms S and I agree with our investigator that it would be fair and reasonable for Motability Operations to pay £150 to Ms S to compensate her for that distress and inconvenience – I'm not persuaded that a higher award of compensation is justified in these circumstances;
- the terms and conditions of the hire agreement, which had been accepted by Ms S, say: *"You will be responsible for the payment of all fees including any licence fees (except for road fund licences where you have an exemption certificate), parking charges, fines, congestion charges and other outgoings in respect of the Vehicle"*;
- there were multiple outstanding penalty charge notices as a result of the car being parked illegally and Motability Operations says that a notice issuing authority had sent statutory notices, penalty charge notices had been affixed to the car and enforcement notices had been sent;
- Ms S says that she doesn't take liability for the parking fines as she didn't receive them but I consider that she would have known, or ought reasonably to have known, about the penalty charge notices and I consider that she was responsible for them;
- I'm not persuaded that the penalty charge notices have been incurred as a result of the car being incorrectly registered or that Motability Operations should be liable for the notices because the car was registered to Ms S's daughter;
- I consider that Motability Operations has acted correctly in connection with the penalty charge notices and I'm not persuaded that there's enough evidence to show that it was required to provide Ms S with a hire car or to pay for taxis after the car had been clamped or that it has breached Ms S's daughter's data protection (but that would be for the Information Commissioner to decide if a complaint was made to it); and
- I sympathise with Ms S for her daughter's health issues and appreciate the additional difficulties that they cause her, but I'm not persuaded that it would be fair or reasonable in these circumstances for me to require Motability Operations to take any action in relation to the penalty charge notices, to pay Ms S any more compensation than the £150 referred to above or to take any other action in response to her complaint.

Putting things right

For the reasons set out above, I find that it would be fair and reasonable for Motability Operations to pay £150 to Ms S to compensate her for the distress and inconvenience that she's been caused.

My final decision

My decision is that I uphold Ms S's complaint in part and I order Motability Operations Limited to pay her £150 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms S to accept or reject my decision before 19 April 2022.

Jarrold Hastings

Ombudsman