

## The complaint

Mr B complains that Motability Operations Limited mishandled an insurance claim when the car he had hired from it was stolen. Mr D says this has caused him significant distress, inconvenience and financial loss.

## What happened

Due to health conditions Mr B was entitled to receive an award of Personal Independence Payment (PIP) with the mobility component and so was able to join the Motability scheme. He entered into a three-year hire agreement with Motability Operations for a car in September 2019.

In March 2022 Mr B was hospitalised as a medical emergency and on the same day, unbeknown to him, the car was stolen. He remained in hospital for around a month.

Two days after the car had been stolen, the Irish Police sent a data protection request to the Motability Scheme and Customer Protection Team. This request set out that the car and driver had been stopped trying to enter the Republic of Ireland, that the car registration number did not relate to the chassis number on the engine, and that because of this, it asked for the correct registration number for the car. The police also asked that this information was provided “*as a matter of urgency*” as a male was being held in custody having been detained.

Around nine days after the theft Mr B became aware his car had been stolen and reported it to the police and to Mobility Operations. Motability Operations advised Mr B to inform the insurance company and raise a claim.

The insurers were unable to locate the car within three weeks from the claim being opened and so in line with its policy, declared the car to be a total loss and passed it on to the Special Investigations Team to investigate. In light of this decision Mr B’s hire agreement with Motability Operations ceased at the start of April 2022.

The insurers decided they were unable to offer Mr B with a hire car and so offered a taxi account with £50 credit. Mr B complained to Motability Operations that the amount was insufficient in light of his various upcoming medical appointments, and it provided him with £150 taxi account in its place. Motability Operations also reimbursed him the three weeks of rentals he had paid while he didn’t have the car.

Mr B was concerned about his ability to get around without a car and Motability Operations requested an urgent allowance reinstatement from the DWP of the mobility component of his PIP. It explained to Mr B that until a decision had been made by the insurer it couldn’t allow him to enter into a new Motability agreement.

Due to Mr B’s circumstances, he decided to purchase a replacement car. Unfortunately, Mr B says the first car he purchased proved unsuitable and the second also had issues. He says that he couldn’t really afford to replace the car he’d had under the Motability scheme and that doing so caused him distress, inconvenience and financial loss.

In mid-May 2022 Mr B's case with the insurer's was closed and he later arranged to take out a new hire agreement with Motability Operations though there was a wait of several months for the car.

Mr B says he later became aware of the contact the Irish police had had with Motability Operations two days after the car had been stolen. He complained to Motability Operations that as it knew where the car was it should have notified the insurer, and this would have led to the car being returned to him rather than it being considered as a total loss. He says the police informed him that the car was drivable and without damage.

Mr B said if Motability Operations had passed the information on about the car correctly, he wouldn't have had to go to the expense of replacing the car. He says he wasn't adequately supported by Motability Operations during the insurance claim.

Motability Operations didn't uphold Mr B's complaint. It said that it had investigated the contact made to it by the Irish police and that this had been in the form of a request under the Data Protection Act (DPA) in March 2022. Motability Operations said it had responded as it was legally bound to do so but wouldn't have taken other action because it wasn't a notice that the car had impounded and needed collection. It also said that it had received no further contact from the police about the car.

Motability Operations said as the insurer hadn't been able to locate the vehicle in 21 days it was deemed a total loss as per the terms and conditions and the Special Investigations Unit was allocated to investigate. It said at this point it had requested the DWP to reinstate Mr B's PIP mobility allowance to him so that he could use this to cover the cost of travel.

Mr B was unhappy at Motability Operations' response and complained to this service.

Our investigator recommended a partial uphold of Mr B's complaint. He said that he thought the DPA request received from the Irish police had provided sufficient information for Motability Operations to be aware that the car had been seized by the police and it should have alerted the insurer that there was an issue. If Motability Operations had, our investigator said, this may have led to a speedier resolution of Mr B's claim with the insurer. But our investigator said there was no persuasive evidence that the car would have been speedily released by the police.

Our investigator said that although Motability Operations had arranged for Mr B's allowance to be reinstated and for the reimbursement of the rental payments paid from his allowance for the period he had been without the car, this was insufficient in the circumstances. He said he thought Motability Operations should pay Mr B an additional £300 as compensation. Our investigator said that although much of the distress and inconvenience had been caused to Mr B was due to the actual theft of the car, he thought Motability Operations should have done more. And that the delay caused by failing to contact the insurers when it had been contacted by the police had also caused Mr B distress and inconvenience.

Motability Operations accepted our investigator's view, but Mr B disagreed. He said he felt the amount of compensation didn't recognise the financial detriment he had suffered from not having the car and having to purchase a replacement. He said he hadn't been supported by Motability Operations during this time.

### **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.

Where information is missing or contradictory then I will decide what I think is the most likely thing to have happened.

I've seen that Mr B's car was stolen after he was admitted to hospital and so he wasn't aware of any problem for several days which was when he was advised by a friend that the car couldn't be located. This led to a delay in the insurers being informed and a claim being opened. It isn't disputed this delay was no fault of Mr B.

I've also seen that the Irish police had contacted Motability Operations around two days after the car had been stolen. The police had asked for information in a formal data request. But this request had provided details about the car being stopped entering the Republic of Ireland with false plates. It also said that the driver was currently being held in detention. Motability Operations says it provided the requested information but took no further action.

Mr B says that it is this inaction by Motability Operations which led to the car being treated as a total loss by the insurers because it couldn't be located. He says that had it told the insurers about the Irish police's contact then the car could have been returned to him and the agreement continued. Mr B says this would have saved him a lot of distress and expense.

I appreciate the data request made by the Irish police had provided sufficient information to Motability Operations to have alerted it that there was a serious problem with the car. However, I don't think I can reasonably say that had Motability Operations done more the car would have been returned to Mr B within a short time. This is because it's clear the Irish police were investigating an offence and the car was evidence in that investigation, so I can't say how long they would have wished to retain it. And I've also seen that despite Motability Operations' response to the data information the police have not then made further contact as to the car. I haven't seen any evidence that the police followed up with a notice to Motability Operations that the car was impounded and awaiting collection.

I think in the circumstances that it's more likely than not that even if the insurers had opened a claim about the theft of the car sooner and been aware from the start of where the car had been stopped that the claim would still have been assigned for further investigation. I also don't think that even if the location of the car had been known that it's likely it would have been retrievable within the necessary timescale for it not to have been treated as a total loss. So, although the claim would have been closed earlier had Motability Operations acted, I don't think I can fairly say this would have resulted in a significantly different outcome in respect of the decision about the car and the agreement ending.

I appreciate Mr B feels let down by Motability Operations because he says it didn't assist him in keeping mobile. But I've seen it was the decision of the insurer not to provide a courtesy car not of Motability Operations and in those circumstances, I wouldn't expect Motability Operations to seek to override this decision. When the car was deemed a total loss then the hire agreement with Motability Operations ceased.

Motability Operations has explained that a new agreement couldn't then be entered into by Mr B until the claim had been decided by the insurer. I think that is a fair and reasonable approach to take.

I've seen that Motability Operations reimbursed Mr B's the mobility allowance for the three weeks he didn't have access to the car after it had been stolen and before the agreement was ended. It also made a request for the DWP to reinstate Mr B's mobility component of his PIP going forward so that he could use that to cover his transport costs. In addition,

Motability Operations provided Mr B with £150 taxi account.

I can appreciate that due to Mr B's health having his own transport was important and that he felt he had no alternative but to purchase a car to replace the one he had held via the Motability Scheme. But I have to separate out the inconvenience and distress that resulted from the theft itself from those of the actions of Motability Operations dealing with the necessary claim process that then arose. I think it's fair to say that the loss of the car was due to the theft as was the need to open the insurance claim.

So, although I think Motability Operations should have done more about alerting the insurer earlier, I can't reasonably say that all the inconvenience, distress and financial detriment suffered by Mr B were the fault of Motability Operations and its actions.

But I do agree with our investigator that compensation for Mr B by Motability Operations for not doing more when the DPA request was received is warranted. And, although I know this will disappoint Mr B, I think £300 for the inconvenience and distress caused to him for the delay in passing the information on to the insurer is fair and reasonable. I'm not going to ask Motability Operations to reimburse him for the cost of the replacement car/s.

For the reasons give above, I'm partially upholding Mr B's complaint.

### **Putting things right**

I'm asking Motability Operations Limited to pay Mr B £300 compensation for the distress and inconvenience caused by not alerting the insurer sooner that there was an issue with who had the car and where it was.

### **My final decision**

For the reasons set out above I'm partially upholding Mr B's complaint. I'm asking Motability Operations Limited to pay Mr B £300 compensation for the distress and inconvenience caused by not alerting the insurer sooner that there was an issue with who had the car and where it was.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 17 August 2023.

Jocelyn Griffith  
**Ombudsman**