

The complaint

Mrs W complains that Motability Operations Limited (“Motability”) mis-led her and told her she could purchase a car at the end of a hire agreement.

What happened

Mrs W acquired a car under a hire agreement with Motability in July 2017. Mrs W had the car adapted to her needs by having a 100kg four way transferrable boot hoist installed. The car was due to be delivered in December 2017.

In October 2017, a modification was made and the car was due to be further adapted by installing a specialist lifting bracket. In total, Mrs W had optional extras added totalling around £2,500. The car was delivered in late November 2017.

Under the agreement, an advanced adaptation rental payment of £840 was due in addition to a £1,499 advanced rental payment. The agreement had a minimum hire term of 3 years starting on the date of delivery of the car. But it could be extended for a further period of 24 months.

In August 2020, Mrs W agreed with Motability to extend the hire agreement until November 2022.

In March 2021, Mrs W contacted Motability and asked how much it would cost to purchase the car. Motability generated a price of £14,025. The price was valid until May 2021. Motability told Mrs W that the price could go up and down and if she wanted a new price for the car, she would need to shorten the lease extension and then Motability could generate a new price.

Mrs W contacted Motability in May 2021 and said she wanted to extend the agreement for a few months whilst she got the money together.

In August 2022, Mrs W contacted Motability again and asked it to generate a price. In September 2022, Motability generated a price of £19,375 with a deadline of November 2022 for Mrs W to make the purchase.

In September 2023, Mrs W contacted Motability again and asked it to generate a price for the car. Motability said it would be able to provide a price once in the final 12 weeks of the agreement. Mrs W said ideally she wanted a price as she was looking to sell assets to have the money in place to proceed. She said a new car may not be suitable for her but she was concerned about only having 21 days to make a payment. Motability told Mrs W that it could be flexible with the payment deadline if she was purchasing the car. It also reassured Mrs W that a price could be generated straight away. As I understand it, sometime not too long after this point, Mrs W decided against purchasing the vehicle which is the subject of this complaint and wished to acquire a new one instead.

Later that month, Mrs W agreed a new lease extension until March 2024 as there was a delay on the new car she had ordered being delivered. Mrs W also said that the manufacturer of the new car was no longer building the model she had ordered and instead she would be receiving a different model. But two of the features she required due to needs - dual climate control and parking sensors – would not be available on the new model.

In October 2023, Mrs W told Motability she had been waiting for more than a year for the new car. She told Motability that she was now considering cancelling the order for the new car and instead saving the funds to purchase the car she had. So she asked Motability to generate a purchase price for her. However, Motability had system issues so it couldn't generate a price when Mrs W called. Mrs W also cancelled the new order she had made and said she would wait for a different manufacturer to bring out a new model in January 2024, which wasn't as yet available on its website. Around a week later, Mrs W contacted Motability and once again requested a purchase price for the car she had. Motability told Mrs W that due to a policy change, it was no longer offering purchases of its cars at the end of an agreement.

In November 2023, Mrs W complained to Motability. She said she had been repeatedly told she would be able to get a quote to purchase the car, including in the weeks prior to the change of policy. She said after she had obtained two quotes, she was aware she could only have one more price quote generated, which is why she left the decision to buy the car so late. Mrs W also said Motability's website, at the time she entered into the agreement, said she could buy the car at the end. She said she was told there were no cars that met her needs available on the scheme and so, she had decided that her only option was to spend a significant proportion of her savings and purchase the current car. She also said she intended to acquire a smaller electric car on the scheme as this would save her money in running costs and she would use the existing car for longer journeys or local journeys that were unsuitable in the electric car.

Motability issued its response to Mrs W's complaint in November 2023. It said the option to purchase the car wasn't available and following a detailed review, ensuring sustainability and longevity of the scheme, the option for customers to buy cars was removed from the scheme.

Unhappy Mrs W referred a complaint to this service. She reiterated her complaint and said to put things right, Motability should sell the car to her at a fair price or provide an equivalent or better car. She also said it should provide her with compensation for the time, effort and emotional distress that having to sort this out had cost her. Mrs W said Motability should ensure other current leaseholders should have the opportunity to purchase their cars.

Our investigator looked into Mrs W's complaint but said Motability hadn't acted unfairly. He said the terms of the hire agreement didn't allow Mrs W to purchase the car at the end of the hiring period. He said whilst the option to purchase the car was previously available, it had been removed.

Mrs W disagreed and reiterated her complaint points. So, the complaint was passed to me to decide.

Since the complaint was referred to me, I've had discussions with Motability. As a result of those discussions and considering Mrs W's individual circumstances, Motability agreed to generate the third and final purchase price, under the scheme rules available when Mrs W took out the agreement. And it since provided Mrs W with a price for the car and given her a two week deadline to complete her purchase.

As Mrs W hasn't confirmed to this service her acceptance of Motability's offer, the complaint is once again with me to formally decide.

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.

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 (if appropriate) what I consider was good industry practice at the time. Mrs W was supplied with a car under a hire

agreement. This is a regulated consumer credit agreement which means we're able to look into complaints about it.

I've read and considered the whole file and acknowledge that Mrs W has raised a number of different complaint points. I've concentrated on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it – but because I don't think I need to comment on it in order to reach what I think is the right outcome. The rules of this service allow me to do this.

This service also considers complaints on an individual basis. So whilst Mrs W would like this service to make a finding that Motability should allow all current leaseholders to purchase cars at the end of the hiring period, that's beyond the scope of what I'm able to consider. All I'm able to consider is whether Motability has acted fairly and reasonably towards Mrs W.

As I've set out in the background section of this decision, Motability has now agreed to generate a third and final purchase price, to enable Mrs W to purchase the car. This is the final purchase amount all parties accept Mrs W would have had when she first acquired the car, had the terms of the scheme remained the same.

Furthermore, I consider that the crux of Mrs W's complaint is whether it would be fair and reasonable for Motability to sell Mrs W the car she has hired under the hire agreement.

As Motability has now agreed to do this and all parties accept that Mrs W would, at best, only ever have had a third opportunity to request a purchase amount, I'm satisfied that Motability's offer is a fair resolution in respect of Mrs W's complaint. I say this particularly as being provided with the third purchase price is what Mrs W requested as a resolution to her complaint when she referred it to this service. So I don't direct Motability to do anything further in relation to allowing Mrs W to purchase the car from it. And I leave it up to Mrs W to decide whether she wishes to accept Motability's offer for her to purchase the vehicle for the amount notified.

I now turn to the compensation payment Mrs W requested when she referred the complaint to this service. Having carefully considered matters, I'm not asking Motability to pay any compensation. I'll explain why.

The agreement Mrs W entered into is a regulated hire agreement. The terms and conditions Mrs W agreed to state:

“14. Hire Term and Return of the Vehicle at the end of the Hire Agreement

14.1 You are only entitled to use the Vehicle for the Hire Term as specified in the Agreement. The Hire Term shall continue automatically following the end of the Minimum Hire Term referred to in this Agreement unless either you or we have served not less than (30 days written notice on the other terminating this Agreement on the last day of that Minimum Hire Term. (f no such notice is served, this Agreement shall, subject to the provisions of Clauses 15 and 16, terminate upon expiry of the Maximum Hire Term.

14.2 You must promptly return the Vehicle and any Adaptations to whom we direct at the end of the Hire Term at your expense together with the Certificate of Motor (insurance, all keys (or equivalent), the handbook, the service record book and, where applicable, a current MOT test certificate.”

This means that Mrs W was required, and agreed, to return the car upon the expiry of the maximum hire term. There is no term within the hire agreement or terms and conditions that would allow Mrs W to purchase the car at the end of the hiring period.

In addition, whilst I agree that external communication on a website did state that Motability would offer Mrs W a price for the car, Motability wasn't bound by this indefinitely. This wasn't a term of the hire agreement it entered into with Mrs W and it was simply a policy which Motability had and which it says is something that it offered as a gesture of goodwill.

In addition, Motability changed its policy and removed the possibility of hirers being able to purchase cars at the end of a hiring period in October 2023. As a commercial business, Motability is entitled to change its commercial practices, policies and decide how it conducts its business. And so, I don't think Motability acted unfairly when it changed a policy which wasn't a term of Mrs W's agreement and this resulted in Mrs W no longer being able to purchase the car at the end of the hiring period.

So, it follows that I'm not asking Motability to do anything further in this respect. This also means that because I don't think Motability needed to sell the car to Mrs W at the end of the hiring period, I don't require Motability to make a payment to Mrs W for any distress and inconvenience she's suffered.

Overall, I think the offer made by Motability to sell the car to Mrs W is fair and reasonable in the circumstances. Motability has provided Mrs W with the price of the car and allowed a reasonable time for her to purchase it by. So, I don't recommend it does anything further.

My final decision

My final decision is that I partially uphold this complaint. I direct Motability to provide Mrs W with the option to purchase the car within the time limit it has agreed to, if it hasn't already done so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 26 September 2024.

Sonia Ahmed
Ombudsman