

The complaint

Mr S complains that Motability Operations Limited (“MOL”) unfairly refused him the opportunity to purchase a car that had previously been supplied to him via a hire agreement.

What happened

In September 2021 Mr S was supplied with a car by MOL financed through a hire agreement. That agreement was due to end in September 2024. Mr S says that it had always been his intention to purchase the car at the conclusion of the hire agreement.

In November 2023 MOL changed its policies in relation to the options a consumer had at the end of a hire agreement. It decided at that time that consumers would no longer be allowed to purchase the vehicles – it said that the vehicles must be returned as per the terms of the agreement. Mr S says he only found out about that change by chance in February 2024. He said that he had previously undergone some financial hardship to ensure he had sufficient funds to purchase his car at the end of the agreement.

Mr S complained to MOL about its change of approach. MOL explained that the terms and conditions of the scheme had never given a consumer the right to purchase a vehicle at the end of the agreement. But it agreed that, as a discretionary gesture of goodwill, that had sometimes been allowed in the past. But it said that it decided to remove that option in November 2023 to allow it to focus on the sustainability of its Scheme. Unhappy with that response Mr S brought his complaint to us.

Mr S’ complaint has been assessed by one of our investigators. He didn’t think that the terms of Mr S’ hire agreement gave him any right to purchase the car at the end of the term. He said it was for MOL to decide the basis on which it ran its business. So whilst he sympathised with the impact the change of approach had caused to Mr S, he didn’t think MOL had done anything wrong. So the investigator didn’t think Mr S’ complaint should be upheld.

Mr S didn’t agree with that assessment. So, as the complaint hasn’t been resolved informally, it has been passed to me, an ombudsman, to decide. This is the last stage of our process.

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 deciding this complaint I’ve taken into account the law, any relevant regulatory rules and good industry practice at the time. I have also carefully considered the submissions that have been made by Mr S and by MOL. Where the evidence is unclear, or there are conflicts, I have made my decision based on the balance of probabilities. In other words I have looked at what evidence we do have, and the surrounding circumstances, to help me decide what I think is more likely to, or should, have happened.

At the outset I think it is useful to reflect on the role of this service. This service isn't intended to regulate or punish businesses for their conduct – that is the role of the Financial Conduct Authority. Instead this service looks to resolve individual complaints between a consumer and a business. Should we decide that something has gone wrong we would ask the business to put things right by placing the consumer, as far as is possible, in the position they would have been if the problem hadn't occurred.

Mr S 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. And the Motability scheme that arranges the car and hire agreement is governed by some terms and conditions that I have also considered here.

The agreement that Mr S made when the car was supplied to him was a hire agreement, rather than a hire purchase agreement. That difference is important since a hire agreement doesn't provide a consumer with the right to purchase the car, at an agreed price, at the end of the agreement. That right is however present in a hire purchase agreement. So the agreement that Mr S signed in September 2021 simply allowed him the use of a car for a set period of time – and at the end of that term he would need to return the car to MOL.

MOL accepts that it has previously, as a discretionary gesture of goodwill, allowed some customers to purchase their car at the end of a hire agreement. But that opportunity isn't provided as a right in the scheme terms and conditions. They simply say that,

“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.”

So I am satisfied that neither the terms of the hire agreement, nor the terms of the Motability scheme provided a contractual right for Mr S to purchase his car at the end of hire term.

It is clear however that, as I've said earlier, the opportunity to purchase was sometimes offered in the past. And so it is unsurprising that might have formed part of the discussions Mr S potentially had with MOL, and most likely had with the Motability specialist at the main dealer that supplied his car. It is understandable that the change of approach taken by MOL will have caused some disappointment to Mr S.

But a business must be free to decide the basis upon which it is willing to provide its services, providing those remain within the contractual and regulatory conditions that apply. I don't think it would be right for this Service to either direct which services a firm should offer, or to prevent firms from making changes to those services in an appropriate way. And, most importantly here, MOL is not actually making any changes to its terms and conditions, or the hire agreement it had with Mr S.

I understand how disappointing this decision will be for Mr S. But when considering a complaint I must consider whether a business has acted in a fair and reasonable manner when considering the terms and conditions of any service it has agreed to provide. In this case I think that MOL has acted entirely within the terms and conditions of both the Motability scheme, and the hire agreement that Mr S signed. So I don't think MOL has done anything wrong, and so I don't think the complaint should be upheld.

My final decision

For the reasons given above, I don't uphold the complaint or make any award against Motability Operations Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 14 November 2024.

Paul Reilly
Ombudsman