

The complaint

Miss G complains about the credit agreement she took out with Motability Operations Limited (“Motability”). She says she paid around £10,500 for the car and some optional extras and was under the impression she’d be able to buy the car at the end of the agreement, or alternatively, obtain a like-for-like vehicle. But she’s now discovered this isn’t the case at all.

Miss G is represented in her complaint. For ease of reading, any reference to “Miss G” refers to the testimony of both Miss G and her representative.

What happened

In October 2023 Miss G was supplied with a car by Motability financed through a hire agreement. Under the hire agreement, the *Advanced Rental Payment* was £2,849.39, to be paid in 39 *Rental Instalments* at 4-weekly intervals.

Miss G says that she purchased a number of optional extras at considerable cost and was told by the car dealership that it would be possible to purchase the car at the end of the three-year agreement. And she says it had always been her intention to purchase the car at the conclusion of the agreement.

In October 2023 Motability 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 able to purchase the vehicles – it said the vehicles would need to be returned as detailed in the terms of the agreement.

Miss G complained to Motability about its change of approach. Motability explained that the terms and conditions of the scheme had never given a customer the right to purchase a vehicle at the end of the agreement. It agreed that, as a discretionary gesture of goodwill, an option to purchase had *sometimes* been offered in the past. But it said that it decided to remove that option in October 2023 to allow it to focus on the sustainability of its Scheme.

Our Investigator looked at this complaint and said he didn’t think it should be upheld. He said he didn’t think the terms of Miss G’s hire agreement gave her any right to purchase the car at the end of the term – it was for Motability to decide the basis upon which it ran its business. So, whilst he sympathised with the impact the change of approach had caused to Miss G, he didn’t think Motability had done anything wrong.

Miss G disagreed so the complaint comes to me to 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.

I hope that Miss G won’t take it as a discourtesy that I’ve condensed her complaint in the way that I have. Ours is an *informal* dispute resolution service, and I’ve concentrated on

what I consider to be the crux of this complaint. Our rules allow me to do that. Miss G should note, however, that although I may not address each individual point that she's raised, I have given careful consideration to all of her submissions before arriving at my decision.

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 Miss G and by Motability.

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 the evidence, and the surrounding circumstances, to help me decide what I think is *more likely* to have happened.

First of all, it might be helpful if I explain that this Service doesn't supervise, regulate or discipline the businesses we cover. And my role isn't to punish or penalise businesses for their performance or behaviour – that's the role of the Regulator; in this case the Financial Conduct Authority ("FCA").

My role is to look at problems and concerns experienced by an individual consumer and determine whether, or not, the financial business – in this case Motability Operations Limited – has done anything wrong. And, if it has, I'll seek to put the consumer back in the position they would've been in, if those mistakes hadn't happened.

What I need to decide in this case is whether the hire agreement was misrepresented to Miss G by Motability, and to make a finding of misrepresentation, I would need to be satisfied that she was told a false statement of fact that caused her to enter into a contract that she would not have entered into otherwise.

I also need to consider whether Motability has breached any of the terms and conditions of the hire agreement by not allowing Miss G an option to purchase the car at the end of the hire period.

Having taken everything into consideration, I've reached the same conclusions as our investigator, and I'll explain why.

Miss G said she was told at the supplying car dealership that she could buy the car at the end of the hire period. And she says she was informed of this verbally when she was entering into the hire agreement. So, I have taken this into consideration.

I do not know exactly what Miss G was told about the potential of being able to buy the car at the end of the hire agreement, and whilst I appreciate that Miss G has given our Service her best recollections of what was said, this took some time ago, and memories can fade over time. So, I have also considered other evidence such what Motability has told us, what the hire agreement stipulates, and what I understand Motability's website said around the time when Miss G entered into the credit agreement.

Miss G 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 Miss G made when the car was supplied to her was a *hire agreement*, not 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 Miss G signed on 4 October 2023 simply allowed her the use of a car for a set period of time – and at the end of that term she would need to return the car to Motability. And on the agreement, underneath where Miss signed to confirm acceptance of the terms of the agreement, there's a statement that says: *"Under this Agreement the Vehicle does not become your property and you must not sell it"*.

Motability says that it has previously, as a discretionary gesture of goodwill, offered some customers an option to purchase their car at the end of a hire agreement. But that opportunity isn't provided as a right in the agreement's terms and conditions.

The agreement says, *"You must promptly return the Scheme Vehicle and any Adaptations to whom we direct at the end of the Hire Term at your expense together with the Certificate of Insurance, all keys, the handbook, the service record book and, where applicable, a current MOT test certificate"*.

So, I'm satisfied that neither the terms of the hire agreement, nor the terms of the Motability scheme provided a contractual right for Miss G to purchase her car at the end of the hire term.

I appreciate that previously Motability may have given hirers the option to purchase their cars at the end of the agreement term and subject to its discretion. But according to the terms of Miss G's hire agreement, Motability was not under any obligation to do so; it was free to remove this goodwill option whenever it wanted.

I think, on balance, that at the time Miss G was entering the hire agreement, had she been given a guarantee that she had an option to purchase the car at the end of the agreement, she most likely would've questioned why her agreement stated something else. And if this was important to her, I think it more likely than not that she would not have entered into the hire agreement in question.

I also consider that in the period before Miss G signed the hire agreement, Motability's website said, *"It may be possible to buy your car at the end of the contract, but this can only be discussed in the final three months of your lease"*. This statement clearly says *may be* possible which does not mean that an option to purchase was an automatic contractual right conferred on Miss G, or a binding contractual obligation on Motability to sell the car to her.

So taking everything into account, I think it's more likely that Miss G was told *"It may be possible to buy"* the car, but I have not seen enough to say that she was likely told she would have the right to do so.

It's clear that the opportunity to purchase was sometimes offered in the past. And so it's not surprising to me that this may have come up in the discussions between Miss G and the car dealership that supplied the car. So, I recognise that the change of approach taken by Motability will have caused some disappointment to Miss G.

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 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, Motability is not actually making any changes to the terms and conditions of the hire agreement that Miss G signed. In this particular case I think that Motability has acted entirely within the terms and conditions of both the Motability scheme and the hire agreement that Miss G signed. So, I don't think Motability has done anything wrong, and so I don't think the complaint should be upheld.

In summary, I do not uphold Miss G's complaint. I know she'll be disappointed with the outcome of her complaint, but I hope she understands why I've reached the conclusions that I have.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss G to accept or reject my decision before 21 April 2025.

Andrew Macnamara
Ombudsman