

## **The complaint**

Mrs J complains about the quality of goods supplied to her on finance by Motability Operations Limited ('MO').

## **What happened**

The parties are familiar with the background details of this complaint – so I will briefly summarise them here. It reflects my role resolving disputes with minimum formality.

Mrs J is being represented in this complaint. So my reference to her is inclusive of (where relevant) to representations and actions made on her behalf.

Mrs J was supplied an electric car by MO via a hire agreement in June 2022. However, she says there have been ongoing problems with the home charging system ('EV charger') supplied with the car meaning charging does not always work as it should (for example failing to charge the car at specified times for a cheaper rate of electricity).

Mrs J says that in the end she had to replace the EV charger with a third party unit at additional cost. She says that MO should have arranged to do this for her in the first instance, and should pay for the replacement.

MO says that it offered a goodwill gesture of £364 to reflect the difference in cost from charging in the day times as opposed to the night which it says Mrs J had no choice to do while these issues were ongoing. It pointed out that the EV charger was provided by a separate entity (which I will refer to as 'P') and did not offer more compensation.

Mrs J is not happy with this resolution and escalated the complaint to this service.

Our investigator said that MO was not responsible for the quality of the EV charger or its maintenance as this was provided by P.

Mrs J has asked for the matter to be escalated to an ombudsman for a final decision.

I issued a provisional decision which said:

*I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.*

*While I might not comment on everything (only what I consider key) this is not meant as a discourtesy to either party – it reflects my role resolving disputes with minimum formality.*

*In considering what is fair and reasonable, I need to have regard to the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and (where appropriate) what I consider to have been good industry practice at the relevant time. The agreement in this case is a regulated consumer hire agreement. As such, this service is able to consider complaints relating to it.*

*MO is the supplier of the car under the hire agreement, and responsible for a complaint*

about its quality. However, the situation with the EV charger was less clear – as P is involved in the branding, installation and support for these units.

I asked MO to clarify some things about the way the agreement works. It confirmed that the pricing for the EV charger is part of the hire agreement. For customers (like Mrs J) who have a drive or off street parking it arranges for the installation of an EV charger. And from what MO has said there is no separate agreement (other than the signed hire agreement) or terms that specifically relate to the provision of an EV charger.

Because of what MO has said I am satisfied that it is essentially the supplier of the EV charger and the car under the hire agreement. As a result, regardless of who installs, manufacturers and supports the EV charger – I consider MO has liability (as the supplier of said goods) for their quality.

The Consumer Rights Act 2015 is of particular relevance to this complaint. It says that under a contract to supply goods, there is an implied term that “the quality of the goods is satisfactory”.

The Consumer Rights Act 2015 says the quality of goods are satisfactory if they meet the standard that a reasonable person would consider satisfactory taking into account any description of the goods, the price and all the other relevant circumstances.

The Consumer Rights Act 2015 (‘CRA from now on’) says the quality of the goods includes their general state and condition and other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability can be aspects of the quality of goods.

Furthermore, I note that the EV charger was installed by P. And there is possibly an issue with the manner of installation rather than the goods (which MO would fairly be responsible for as well for the reasons I have given above). The CRA says that services should be provided with ‘reasonable care and skill’. This isn’t defined exactly in the law but is generally regarded as the level of reasonable care and skill expected in that particular industry.

From what I understand the EV charger involves a charge point and a remote application/portal which works to schedule it. Mrs J says the problems with the system started back in 2021 with a previous car (supplied through MO on hire) failing to charge correctly at the times specified. From what Mrs J says P attended to the issue several times and even replaced the unit more than once. But this did not help.

Mrs J’s testimony is credible and detailed – and this is backed up by the email chain between her, MO and P about the ongoing issues with charging dating back to 2021. I also note MO arranged a replacement car under a new hire agreement in 2022. It appears this was an attempt to resolve the ongoing issues with the charging. P had previously identified the car as having an issue with ‘scheduling’ in an email to Mrs J so I suspect that the car was identified as potentially being the issue rather than the EV charger.

Unfortunately, Mrs J says that this was not the end to the issues. And despite getting a different car the problems with charging continued with the EV charger failing to charge at the desired times. Mrs J has explained that extensive troubleshooting took place including resetting the charger and configuration but to no avail. Mrs J says the unit was replaced again but problems continued –including apparent issues with registration and setup of the replacement unit.

*MO has not provided job sheets for any repairs or visits or troubleshooting but Mrs J has provided credible testimony about the ongoing issues – and these are backed up by email chains showing that there were ongoing complaints and troubleshooting taking place about faults with the charging in 2022 and into 2023.*

*I don't know what the root of the problem is and whether it relates to the controller/app setup or something physically wrong with the goods. It might even be the way things were installed (even when base units were replaced). But I consider that on balance either the goods were not of satisfactory quality or the installation service was not provided with reasonable skill and care. It follows that as the supplier here MO would be responsible for putting things right.*

*Although I don't have an expert report or job sheets about the latest problems with the current unit from P I consider what Mrs J says about it having ongoing issues with reliable charging are likely to be true. I say this noting the evidence shows Mrs J had problems going on for a considerable time – and to date no one has shown it is user error or claimed that there wasn't a problem. The number of attempts at repair/repeat performance to date also underline that have been ongoing faults. I accept it is possible the latest round of repairs and troubleshooting fixed things. But I don't see that being likely in the circumstances, nor why Mrs J would go to further expense to buy a third party unit if there were not continuing issues with the EV charger from P. I also note that Mrs J has said that the third party unit has resolved all the issues with charging that were experienced previously.*

*So I think that on balance the previous attempts to remedy things had not been successful and Mrs J was not acting unreasonably in looking for another solution. The main issue now is that Mrs J has said she is out of pocket as she had to buy a third party EV charging unit and pay for its installation as follows:*

*£586.80 unit cost (supported by an invoice and card payment receipt)*

*£50 installation charge (supported by a copy of an email invoice for the same with the installers address and NICEIC number)*

*MO might argue that it didn't have a chance to attempt repairs again (through P or otherwise) but considering the history here I think that it probably should have looked to arrange a different solution earlier. I also note Mrs J had previously suggested that MO should arrange for a third party other than P to install a new charge point. So Mrs J eventually losing patience and taking matters into her own hands would not be something that could be taken as a surprise or an unreasonable course of action in the circumstances.*

*All things considered, my starting point is that MO should fairly refund Mrs J for the replacement EV charging unit and the installation costs. However, I am only able to award Mrs J for losses she has incurred and not third parties. I was unclear who had paid for these additional costs so asked about it. I have received information from Mrs J's representative which indicates that those authorised under her LPA (including he) manage her financial affairs, which involves covering certain costs and then transferring the funds from Mrs J's account for reimbursement of such expenses. Based on this statement I am satisfied that it is Mrs J whom is reasonably deemed to have suffered the loss here and so it is fair to award her these out of pocket expenses.*

*As part of this settlement MO should arrange for removal/collection of the EV charger installed by P at no further cost to Mrs J.*

*I note MO has already offered Mrs J £364 to reflect the losses caused by not being able to charge the car at certain cheaper times (due to the errors with the EV charger to date). I don't know exactly how this figure was calculated but neither party appear unhappy with this*

as a ballpark figure to remedy this element of loss. So I don't consider it necessary to start delving into this aspect now. But if MO has not paid this – it should do as part of my decision here.

*I consider the issues with the EV charger have also caused a level of inconvenience to Mrs J over an extended period. For example, times when the car was not charged up as expected. In the circumstances I would be looking to award about £250 to reflect this (the award is mitigated somewhat by the overall help and support provided by MO in at least attempting to remedy the issue with repairs and replacements over time). However, I also note the hire agreement will end and Mrs J will be in possession of the third party charging unit that she can either continue to use or sell. So I am not minded to make a further compensation award at this point. However, in the circumstances I think that at the end of the hire agreement MO should give Mrs J the choice as follows:*

- *Retain the third party EV charging unit; or*
- *allow MO to deinstall and take possession of the unit (at no further cost to Mrs J) and receive the additional compensation payment of £250.*

### **My provisional decision**

*I uphold this complaint and direct Motability Operations Limited to:*

- *Deinstall and collect the EV charger installed by P at no further cost to Mrs J;*
- *refund Mrs J the £586.80 and £50 unit and installation costs for the third party replacement EV charging unit;*
- *pay Mrs J interest on these costs at 8% yearly simple from the date of payment to the date of settlement; and*
- *pay Mrs J the £364 compensation it has already offered her (if it has not already);*
- *pay Mrs J an additional £250 compensation payment in the event she allows MO to deinstall and take possession of the third party EV charging unit at the end of the hire agreement.*

*In respect of my interest award if MO decides it should deduct tax then it should provide Mrs J with a certificate of tax deduction.*

MO did not respond. Mrs J said the EV charger is available to remove at their convenience.

### **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.

Neither party has given me cause to change my provisional findings – which I still consider fair for the reasons already given (above). These findings now form my final decision.

### **Putting things right**

Mrs J has said that the EV charger is available to collect and is 'electrically disconnected'. I presume she is referring to that unit installed by P originally. However, it will be down to MO to ensure the removal is done in accordance with any relevant health and safety requirements.

### **My final decision**

I uphold this complaint and direct Motability Operations Limited to:

- Deinstall and collect the EV charger installed by P at no further cost to Mrs J;
- refund Mrs J the £586.80 and £50 unit and installation costs for the third party replacement EV charging unit;
- pay Mrs J interest on these costs at 8% yearly simple from the date of payment to the date of settlement; and
- pay Mrs J the £364 compensation it has already offered her (if it has not already);
- pay Mrs J an additional £250 compensation payment in the event she allows MO to deinstall and take possession of the third party EV charging unit at the end of the hire agreement.

In respect of my interest award if MO decides it should deduct tax then it should provide Mrs J with a certificate of tax deduction.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs J to accept or reject my decision before 27 December 2024.

Mark Lancod  
**Ombudsman**