

The complaint

Miss H complains that the car she acquired through a hire agreement with Motability Operations Limited ("MOL") wasn't of satisfactory quality. She wants to reject the car and be compensated for the distress caused.

What happened

Miss H entered a hire agreement in May 2023 to acquire a new car. Miss H was required to pay a total of £284 every four weeks for hire of the car. The total amount payable for hire by Miss H, estimated on the current allowance rate, was £11,076.00.

Miss H told us:

- When she entered the hire agreement a number of adaptations were initially fitted to the car, but she had to contact MOL to explain that some of the adaptations were in the wrong place, and another hadn't been fitted correctly.
- In July 2023, MOL arranged for some new hand controls to be fitted on the car to address the problems she'd raised, but they weren't suitable.
- Further adaptations were then fitted to the car following another assessment, but it was suggested that if these latest adaptations were not suitable and did not resolve the issues with the car, then consideration should be given to replacing the car.
- On 27 November, she advised MOL that the latest adaptations were unsatisfactory, and MOL agreed to cancel the credit agreement at no cost to her. It also said it would refund her the full advance payment of £2,995.00 upon the return of the car, together with the cost of adaptations paid for by her at the outset - £595.00.
- MOL hasn't made the payments it said it would, and it's not acknowledged the distress and inconvenience it caused her. It's offered her no compensation and it took too long to resolve her complaint.

MOL acknowledged that a number of attempts had been made to adjust the adaptations in Miss H's car – to no avail. And taking advice from a third party, it concluded that no further adjustments were viable. It agreed to cancel the agreement, without charge, so that Miss H could acquire a new car under the Motability Scheme. And it said it would refund Miss H's full advance payment - £2,995.00 together with the full cost of the adaptations she'd paid for at the start of the agreement - £595.00 – on the proviso that the car was returned to the dealership before the end of January 2024.

MOL told this Service about the efforts it had gone to in order to address Miss H's concerns and to try and ensure the adaptations to the car were suitable for her. It said that because it didn't receive confirmation from Miss H that she'd returned the car, it had only been able to make a pro-rata refund of £2,340.21. MOL told us that as part of its investigation into Miss H's complaint, it had been given the assurance it needed about the car having been

returned, and it had now made an additional payment to Miss H - £1,249.79 – so that she'd now been refunded in full.

Our investigator looked at this complaint and said that she thought it should be upheld. She explained the relevance of the Consumer Rights Act 2015 in this particular case, and said she was persuaded that the car supplied to Miss H was not of satisfactory quality. She noted that the two parties to this complaint were in broad agreement about how it should be resolved – the car has been returned and Miss H's agreement with MOL has been cancelled. But she considered whether MOL had done enough to put things right for Miss H in view of what had happened.

Taking into account the distress and inconvenience experienced by Miss H, she asked MOL to pay £500 in compensation. And, for clarity, she set out our Service's expectations in resolving complaints of this nature.

Our investigator had further discussions with both parties about what the proposed redress entailed and what she could and could not consider, and MOL agreed to pay £500 compensation to Miss H. But MOL said it would not pay "8% simple interest on all refunded amounts from the date of payment until the date of settlement" because the car wasn't faulty. And although our investigator explained the purpose of her awarding 8% simple interest, MOL refused to pay this.

Because MOL did not accept our investigator's opinion in full, 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.

As the hire agreement entered into by Miss H is a regulated consumer credit agreement this Service is able to consider complaints relating to it. MOL is also the supplier of the goods under this type of agreement, and it is responsible for a complaint about their quality.

When considering what's fair and reasonable, I take into account relevant law and regulations. The Consumer Rights Act 2015 ("CRA") is relevant to this complaint. This says under a contract to supply goods, the supplier – MOL in this case – has a responsibility to make sure the goods were of 'satisfactory quality'.

Satisfactory quality is what a reasonable person would expect – taking into account any relevant factors. The relevant law also says that 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 the goods.

In this case, both parties accepted that the fair way to settle this complaint was to return the car and cancel the agreement, thereby allowing Miss H to acquire a new car under the Motability Scheme. MOL agreed to refund the full advance payment – £2,995.00 - and the payment made by Miss H towards the adaptations at the start of the agreement - £595.00. I understand that although these payments weren't made in full initially, now that the car's return has been confirmed, the payment have been made in full. Because of this, I don't need to make any findings about whether the car was of satisfactory quality when supplied.

But part of the redress that our investigator recommended MOL pay is in dispute, So, this is the focus of this decision.

MOL says it won't pay 8% simple interest because the car wasn't faulty. But I have to tell MOL that it's misunderstood the purpose of 8% simple interest. Payment of 8% simple interest isn't dependent on whether or not the car supplied was faulty, it's designed to reflect the cost to a consumer of their being deprived of their own money; they may have had to go without things because they didn't have that money. And the figure of 8% reflects the current statutory interest rate that a court would award on judgement debts.

Taking everything in the round, I'm satisfied that the redress recommended by our investigator is both fair and reasonable in the circumstances of this complaint, and I'm going to direct MOL to include payment of 8% simple interest to put things right.

Putting things right

If it hasn't already done so, I'm directing Motability Operations Limited to:

- refund Miss H's deposit contribution of £2,995.00 plus Miss H's contribution of £595.00 for the initial adaptations if not already done so.
- pay 8% simple yearly interest on all refunded amounts from the date of payment until the date of settlement;
- pay a further amount of £500 for any distress or inconvenience that's been caused due to the supply of unsuitable goods;
- remove any adverse information from Miss H's credit file in relation to the cancelled agreement.

My final decision

My final decision is that I uphold this complaint. If it has not already done so, I direct Motability Operations Limited to pay redress as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 27 January 2025.

Andrew Macnamara
Ombudsman