

The complaint

Miss C complains Motability Operations Limited (MOL) didn't treat her fairly when the vehicle she was hiring for her disabled son was written off by the insurers.

What happened

The circumstances of the complaint are well known so I don't intend to go over everything again in detail. Instead, I'll provide a summary of events.

In January 2019 Miss C entered into a hire agreement with MOL for an adapted wheelchair accessible vehicle (WAV) suitable for her disabled son.

In December 2023 the WAV was hit by a falling tree. The WAV was taken to a garage in January 2024. The WAV was returned to Miss C who, at that time, was advised that they would need order parts to complete repairs, but that the WAV was driveable in the meantime.

It appears that these parts took some time to arrive, as the WAV did not go in for these parts to be fitted until May 2024. The WAV was returned to Miss C in early June 2024 however, shortly afterwards she received a call from a company (I'll call 'Business C') who advised her that the WAV would be collected as it has been deemed a total loss because the cost of the works rendered it uneconomical to repair. This call came as a complete surprise to Miss C.

Miss C was unhappy with the decision to write-off the WAV and raised her concerns with both MOL and the insurers¹. When contacting MOL, alongside raising concerns about the write-off decision, Miss C also expressed dissatisfaction with MOL's inability to supply her with a suitable replacement WAV through its scheme partner, Business P. Finally, Miss C also said she was unhappy with how she was spoken to by its call handlers.

In July 2024, MOL issued its final response in which it didn't agree that it had acted unfairly with regards to its part in the decision made by the insurers or in the steps it took to source an alternative vehicle for Miss C. Further, MOL said that having listened to the calls Miss C had with it there were some *development areas*, but it was *comfortable the correct advice and guidance was applied throughout*.

Notwithstanding this, MOL offered £150 as a gesture of goodwill in recognition of the *difficult experience* [Miss C] had faced, as well as the time she spent speaking to both it and its scheme partners throughout the process. Miss C rejected this offer.

In August 2024, unhappy with MOL's response, Miss C referred the complaint to our service. One of our investigators looked into matters and, in December 2024, issued her findings. In short, our investigator said MOL *acted within the terms of the agreement by terminating [it] once the vehicle was declared a total loss* and MOL did *what it is required to do contractually* with regards to the replacement vehicle. Further, our investigator felt that MOL's offer of

¹ A separate complaint has been brought to our service by Miss C about the insurers. This decision focusses solely on the actions (or inactions) of MOL.

£150 was a reasonable offer and did not recommend it be increased. Therefore, she didn't think MOL needed to do anything further to resolve matters.

Miss C didn't agree with our investigator. And, in doing so, raised a number of points which she described as *key unresolved issues*. I won't set these all out in detail, but in summary Miss C said she had concerns about:

1. [The insurer's] handling of the write-off decision, including a failure to identify structural damage at first notification of loss, thereby allowing the WAV to be driven for almost six months with structural damage which put her disabled son at risk.
2. The contradiction between finding the WAV was usable and 'safe to drive' when structural damage existed.
3. The insurers failure to provide an initial repair estimate.

In addition to the above, Miss C raised a number of new points with MOL, including concerns about the replacement policy and, specifically, the three-month time limit and its impact on those with profound and multiple learning disabilities (PMLD) which may amount to indirect discrimination under the Equality Act 2010. These concerns have been raised after the complaint has been referred to our service and after our investigator has issued their findings. Therefore, these will need to be treated as a new complaint. I understand MOL have been informed of these concerns and will respond in due course, if it hasn't already done so. Therefore, these matters do not fall within the remit of this decision and I will not comment on them any further.

As an agreement couldn't be reached, the complaint has been passed 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.

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.

Miss C 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 Miss C 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.

To begin, I think it is important to be clear that a number of the points Miss C has raised, including some points raised in response to our investigator's findings appear to relate to the actions (or inactions) of the insurer. A separate complaint has been made by Miss C against the insurer and, therefore, I will not comment further on these matters.

As our investigator noted, the terms and conditions of the hire agreement – which Miss C agreed to upon signing it - set out circumstances in which the agreement can be terminated. This includes circumstances when MOL or its *claims agent determine that it is not*

economic to repair any damage. In this case, the insurers decided that the WAV was a write-off and notified MOL of this decision on 17 June 2024². Therefore, MOL took steps to terminate the agreement at which point its contractual obligations to Miss C under the terms of the hire agreement effectively end. I do not think MOL acted unreasonably in this regard.

The decision to declare the WAV a total loss (and by what category) is made by the insurer, not MOL. I have not seen evidence to show that MOL provided inaccurate information to the insurer or otherwise acted unfairly prior to the insurer making this decision.

I accept that it would have been very distressing to receive a call out of the blue from Business C to arrange collection of the WAV. I say this particularly bearing in mind Miss C has been clear about how important the WAV is for her and her son. However, as our investigator noted, Business C was appointed by the insurer following its decision to write-off the WAV, not MOL. It is not something I can fairly hold MOL responsible for.

MOL's website explains that, in the event of a vehicle being unrepairable following an accident, it will do its *best to give* [the customer] *as suitable a replacement as possible, or [it'll] offer other solutions for* [the customer's] *essential travel needs* for a period of three months³. This is not referenced within the terms and conditions of the hire agreement.

In this case, MOL arranged a replacement vehicle through Business P. Unfortunately, this was unsuitable for the needs of Miss C's son as it did not have a long wheelbase. It appears it took several months (until around 30 September 2024) for a suitable vehicle to become available. I imagine this was a desperately frustrating and distressing time for Miss C and her son.

Once the more suitable vehicle was provided, MOL began the three-month period which it extended until 13 January 2025. I understand this was subsequently extended again until 22 February 2025. And, following a call between Miss C and our investigator on 18 February 2025, I understand MOL have agreed to allow Miss C to keep the replacement vehicle until the new one arrives, which is good to hear.

From the contact notes I've seen, MOL regularly chased Business P for an update as to the progress of delivery of a more suitable vehicle. And it kept Miss C informed throughout this process. I don't think I could reasonably expect it to do more in the circumstances. I say this bearing in mind it wasn't necessarily under a contractual obligation to provide this vehicle.

The role of our service is to deal with individual disputes between a financial business and their customer. Miss C has raised broader concerns about MOL's replacement policy and its systemic unfairness for customers with PMLD and, as I've said, these concerns do not fall within the remit of this decision. However, looking at matters solely through the lens of the circumstances surrounding this individual complaint, I don't think MOL acted unfairly in the way it handled the supply of the replacement vehicle.

Finally, I've listened to the calls between Miss C and MOL between 12 June 2024 and 27 June 2024⁴. Having done so, I think the agents remain professional and try to help Miss C. I can't agree MOL gave Miss C poor customer service in these calls. MOL did offer £150 as a gesture of goodwill in recognition of the amount of time Miss C spent on the

² I note MOL first became aware of this matter when Miss C contacted it on 12 June 2024, after she had received the call from Business C. However, the available information suggests formal notification from the insurers was not received by MOL until 17 June 2024.

³ In which time the customer is expected to find, apply and receive their next Scheme vehicle.

⁴ This being when Miss C raised concerns with MOL about the customer service she had received.

phone to both it and its partners. I am unclear if this offer is still available, however Miss C is free to contact MOL directly to discuss the offer, if she hasn't already done so.

I have every sympathy for Miss C and her son who have no doubt have been through an incredibly difficult time. And I understand how disappointing this decision will be for Miss C. 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 Miss C 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

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 C to accept or reject my decision before 22 May 2025.

Ross Phillips
Ombudsman