

## **The complaint**

Mr H complains about the hire agreement he took out with Motability Operations Limited ("Motability"). He says he was told at the end of the agreement he'd be able to buy the car but has now discovered this isn't possible.

## **What happened**

In March 2022 Mr H was supplied with a car by Motability financed through a hire agreement. Under the hire agreement, the Advanced Rental Payment was £3,249, to be paid on or before the commencement of the Hire Term. Regarding the rental payments, the agreement said: *"During the Minimum Hire Term there are 39 Rental Instalments of Total Allowance payable at four weekly intervals..."*

Mr H says that he was told by the car dealership that it would be possible to purchase the car at the end of the hire agreement. He says this influenced his decision to pick a certain car model for which he paid a high advance payment for. Mr H says it had always been his intention to purchase the car at the end of the hire agreement.

In November 2023 Motability said it 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 vehicle at the end of the agreement.

Mr H complained to Motability about its change of approach. Motability explained the policy change had been made to ensure it was efficient as a business and to allow it to support the sustainability of its scheme.

Unhappy with the above Mr H referred his complaint to our service.

Our investigator looked at this complaint and said he didn't think the terms of Mr H's hire agreement gave him any right to purchase the car, at the end of the term, and that 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 Mr H, he didn't think Motability had done anything wrong.

Mr H disagreed so the complaint has now come 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 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 H 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.

In this case, I've firstly considered whether Motability has breached any of the terms and conditions of the hire agreement by not allowing Mr H an option to purchase the car at the end of the hire period.

Mr H 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 which I have also considered here.

The agreement that Mr H entered into when the car was supplied to him was a hire agreement and 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 Mr H signed 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 back. And on the agreement, underneath where Mr H 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 terms of the agreement states: *"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."*

Given all of this, I'm satisfied that neither the terms of the hire agreement, nor the terms of the Motability Scheme provided a contractual right for Mr H to purchase his car at the end of the hire term.

I appreciate that Motability may have previously given hirers the option to purchase their vehicle at the end of the agreement, but this was subject to its discretion. Under the terms of Mr H's hire agreement, Motability was under no obligation to offer this option and was free to remove this goodwill option at any time.

In terms of making a finding on whether the hire agreement was misrepresented to Mr H by Motability, I would need to be satisfied that Mr H was told a false statement of fact that caused him to enter a contract that he would not have entered otherwise. Based on the available evidence, I don't have enough to conclude that this is what most likely happened.

At the time of Mr H entering the hire agreement, Motability did offer some customers the option to purchase the vehicle at the end of the hire term. Therefore, if Motability or the dealership indicated to Mr H that he may have an option to purchase the car, this would not be considered a false statement of fact, as the option was indeed available – albeit subject to Motability's discretion.

I also think that it is more likely than not that had Mr H been told that he will definitely be able to purchase the car – he would have questioned why the hire agreement stated something else. And so, taking everything into account, I have not seen enough to say that he was told a false statement of fact causing him to enter into this contract which he wouldn't have entered otherwise.

In terms of what Mr H has said about his choice of car, which involved a high advance payment, based on being told he could purchase it, I haven't seen sufficient evidence to persuade me that this was the only reason for his decision to choose the car that he did. It's also worth noting that the advance payment may have been a contribution towards the use of a higher specification car, which Mr H has been able to use and enjoy for the term of the agreement. And so, I don't consider it fair to suggest that this payment should now be refunded.

While it's clear that the opportunity to purchase a vehicle at the end of a hire agreement was sometimes offered in the past by Motability, and I recognise that the change of approach taken by Motability will have caused some disappointment to Mr H, 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. And 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 Mr H signed.

I appreciate Mr H's strength of feeling regarding his complaint, but I do not think I've seen enough to say that there has been a breach of contract, or misrepresentation. In this case I think that Motability has acted within the terms and conditions of the hire agreement Mr H signed and I don't think Motability acted unfairly. As such, I'm not directing Motability to do anything further to resolve this complaint.

### **My final decision**

I don't uphold this complaint against Motability Operations Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 16 June 2025.

Farhana Akhtar  
**Ombudsman**