

The complaint

Mr S complains about a car that was provided to him with a hire agreement he took out with Motability Operations Limited (“MOL”).

As the complainant is Mr S, for ease, I will refer to him only throughout this decision, when referring to what he and his representative have told us.

What happened

In May 2022, Mr S signed a hire agreement with MOL to acquire a car under the Motability Scheme.

In May 2023 Mr S complained to MOL about the quality of the car supplied. His complaint was mainly about intermittent issues he experienced with the car’s infotainment system, travel assist warnings, as well as in relation to what he believed to be poor repairs that were done to the car’s front bumper by the supplying dealership during modifications.

On 15 November 2023, MOL issued their final response to Mr S. The car underwent repairs for around a month. It said that it had attempted to assist in keeping him mobile, but ultimately it wasn’t able to provide a courtesy car so offered payments for loss of use which equated to £314.42 for the period between 11 September and 12 October 2023. It arranged a payment of £500 for the stress and inconvenience caused.

Mr S complained to MOL again in November 2023. He said that he was experiencing further issues with the travel assist function, and that he’d had issues with the driver’s side door. MOL said that there wasn’t enough evidence to demonstrate that the repairs had failed or that there was another fault. It said it offered to allow Mr S to end his agreement early in December 2023. MOL issued a further final response in respect of the issue with the driver’s side door in May 2024.

In Mr S’s referral to the Financial Ombudsman, he said he experienced multiple issues with the car over a couple of years, which impacted its performance and his ability to use the car safely. Mr S said he encountered persistent mechanical problems with the car and asked for the relevant inspections and repairs to be done to it. Mr S said that as repairs hadn’t been done, it caused him significant distress and also hindered his mobility and independence.

An ombudsman issued a provisional jurisdiction decision which specified that we could consider the complaints which related to the final responses issued in November 2023 and May 2024. Both Mr S and MOL agreed with this decision, so the case was passed back to the investigator to review the merits of the complaint.

Investigator’s outcome

The investigator considered the complaint. She said that it wasn’t in dispute that there were faults with the car which made it of unsatisfactory quality when it was supplied. But she thought that MOL was fair to offer the option to end the agreement, and it had already reimbursed him one month’s payment in acknowledgement of his time without the car, so

she didn't consider further refunds were appropriate. The investigator also considered the warning Mr S received about his communication but didn't think it was unfair, and she didn't recommend it withdraw its warning.

MOL did not respond to the investigator's outcome. Mr S disagreed and made a number of comments. In summary he said:

- The car was not fit for purpose of providing safe reliable mobility for a disabled customer. The compensation did not reflect the distress, wasted time and impact on independence. There should be a partial refund of lease payments proportionate to the period during which the car failed to meet satisfactory quality standards.
- Mr S requested an escalation to an ombudsman, recognition that the car was not of satisfactory quality when supplied, a partial refund of lease payments for the 2022-2024 period of defective use. Additional compensation beyond £500 for distress, accessibility failures, and retaliatory conduct. A formal finding that issuing a warning following a reasonable adjustment dispute amounts to victimisation under the Equality Act 2010.

As the matter remained unresolved the complaint was assigned 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.

When considering what is, in my opinion, fair and reasonable, I must take into account relevant law and regulations; regulator's rules including Consumer Duty, guidance and standards; codes of practice; and what I believe to have been good industry practice at the relevant time.

An ombudsman has already issued a provisional jurisdiction decision which specified what matters I can consider. Both Mr S and MOL accepted this, and our investigator has issued her assessment. I fully appreciate that Mr S wants a detailed investigation into everything that has happened with the car. But I'll be reviewing what was complained about, and which MOL provided its final responses to, on 15 November 2023 and 9 May 2024. If there are further complaints about anything else that are not included within this decision, they would have to be complained about separately.

Mr S has provided detailed submissions both before and in response to our investigator's assessment. I'm sorry to hear about what's happened. I've read and considered everything Mr S and MOL have said, but I've attempted to summarise the main issues. If I don't comment on a specific issue, it isn't because I haven't considered it, but because I've decided that I don't need to so to provide a fair outcome. This is not intended as a discourtesy but is the informal way that our service works to resolve disputes.

Where the evidence is incomplete, inconclusive, or contradictory (as some of it is here), I provide my decision on the balance of probabilities – meaning, I consider what is most likely to have happened taking into consideration the available evidence and all the circumstances. I don't have the authority to compel witnesses or marshal sworn evidence in the same way that a court can.

The agreement in this case is a regulated consumer credit agreement. As such, this service is able to consider complaints relating to it. MOL is also the supplier of the goods under this type of agreement, and responsible for a complaint about their quality.

Quality of goods

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

The quality of goods will be satisfactory if they meet the standard that a reasonable person would consider satisfactory taking into consideration any description of the goods, the price and all the other relevant circumstances. So, it seems likely that in a case involving a car, the other relevant circumstances a court would take into consideration might include things like the age and mileage at the time of sale and the vehicle’s history. 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.

To begin with there would need to be some evidence of what the fault was. And secondly, that the fault renders the car of unsatisfactory quality.

I don’t consider it was unreasonable for MOL to have wanted some independent evidence that the car might have an inherent fault, especially given the description of the fault, how long the car had been in Mr S’ possession and that it appeared to be intermittent. It was for Mr S to show that the faults were present and that the car was of unsatisfactory quality when it was supplied.

Initial repairs

It’s accepted that there were faults with the car, and Mr S reported issues with the infotainment and travel assist warnings. These issues were repaired, and it seems MOL accept that the car was not of satisfactory quality as repairs were needed. As this was a new car it should be expected that it shouldn’t have any minor defects for a considerable period of time. So, I’m also satisfied that the car was of unsatisfactory quality when it was supplied.

It is unfortunate that the car needed repairs, but I’ve seen that MOL did what it could to try to keep Mr S mobile during this time. Provision of a courtesy car isn’t part of the agreement but it was reasonable for MOL to at least try to keep Mr S mobile, and as they were unable to supply a car that Mr S considered suitable, it was fair for MOL to offer either a pre-paid taxi account or a refund of Mr S’ allowance payments while the car was being repaired. And ultimately it offered a loss of use payment for the time where he didn’t have the car.

Further faults reported

Mr S reported further issues after the repairs were made. But despite multiple inspections further faults or evidence of failed repairs, couldn’t be found initially. Despite the lack of evidence, MOL offered Mr S the option to reject the car in December 2023. After a repair, that is a suitable remedy available under the CRA if a repair has failed, or can’t be completed within a reasonable amount of time and without significant inconvenience to Mr S. The CRA also explains that Mr S can’t require a repair to be made in circumstances where that would be impossible or disproportionate. Given that the fault couldn’t be diagnosed, and the onus was still on Mr S to demonstrate that the car had a fault which made it of unsatisfactory quality, or that there was a failed repair, I don’t consider MOL’s answer was unfair.

Further inspections were inconclusive as to the presence of further faults until April 2024 when an intermittent fault with the Controller Area Network (CAN) was diagnosed. The engineer didn’t give an opinion on whether those faults caused the issues that Mr S was experiencing, how it was caused, or when it started developing. There isn’t sufficient

evidence for me to conclude that earlier repairs failed, or that there was a further fault with the door.

Impaired use

Mr S has asked for an award to represent the impaired use for the whole period that he has had the car. I've not seen sufficient evidence that his use of the car has been significantly affected by the faults with the car. As the type of faults was intermittent and there is also some disagreement about whether the faults were present at all times during the period Mr S claimed. Although MOL did get sufficient evidence of an intermittent fault in April 2024, it had already agreed that Mr S still had the option for the final rejection of the car in December 2023, so I also don't agree that I can make an award for impaired use as he has chosen to continue with the car.

I do understand that it might be difficult for Mr S to find a suitable replacement car, but that doesn't mean I can award for impaired use when he's chosen not to accept a suitable remedy in accordance with the CRA.

Compensation

But considering the period of time when the car was being repaired, it would be hard to imagine it wasn't inconvenient for Mr S to be without the car that he was paying for. I do consider MOL have done as much as reasonably possible to keep him mobile. Mr S has described the inconvenience, distress and the impact on his mobility, independence, and mental health that he has suffered from the issues with the car. I am very sorry to hear about that. But I am unable to award for long term health issues as a consequential loss. These are known as claims for loss of amenity.

When deciding compensation there isn't a set calculation method. And issues and problems can happen and to some extent are expected, but there are situations when a complaint is necessary. However, here Mr S suffered more than the usual problems you might expect, and it went on for some time. I don't agree that MOL dealt with Mr S unfairly with regard to the later issues with the car, as it had already offered a suitable remedy in accordance with the CRA which Mr S had rejected. I have thought about our website guidance on compensation awards. I do consider from what Mr S has said that the earlier issues with the car have caused considerable inconvenience, upset and worry. But I consider the £500 that MOL paid as compensation was fair and reasonable here. I know Mr S has claimed significant health impacts – however, as I have said I can't make awards for loss of amenity. If Mr S wants to pursue this and a more substantial award, he can consider getting legal advice and pursue the matter through the courts.

Warning

Mr S has notified MOL that he needs adjustments to his communication, and MOL confirmed that it has recorded a reasonable adjustment. When responding to Mr S' complaint MOL made a mistake and sent letters by post, enclosing cheques. Mr S says that MOL engaged in retaliatory behaviour when he complained about that, by issuing him with an unreasonable behaviour warning. He said this amounts to victimisation. I'm sorry to hear about MOL's mistake and I can understand that the warning he received might have been upsetting. I've taken the Equality Act 2010 into consideration when deciding this complaint – given that it's relevant law – but I've ultimately decided this complaint based on what's fair and reasonable. If Mr S wants a decision whether MOL has breached the Equality Act 2010, then he'd need to go to court.

I consider it unlikely that sending the letters by post was deliberate, unfortunately sometimes mistakes are made. But it seems that MOL apologised for this and issued the payments directly to his bank account and then had further discussions with Mr S on how to ensure that its communication met his needs. I've not seen evidence to suggest that Mr S was issued a warning in retaliation for either his complaint about that, or his referral of his complaints to the Financial Ombudsman Service. MOL felt that a reminder about its unreasonable behaviour policy was appropriate due to the level of contact that it was receiving about matters which it had already stated its position on. I don't consider it dealt with Mr S any differently to other consumers when issuing its warning on that basis, so I don't consider it dealt with him unfairly.

Summary

I'm sorry to disappoint Mr S but I don't consider I have reason to make an award for impaired use or further compensation here. I consider that MOL already made a fair offer to resolve his initial complaint. And although later faults were diagnosed, MOL had already offered a suitable remedy in accordance with the CRA which Mr S chose to reject. I have to take into consideration Mr S had an opportunity to mitigate the impact of any faults by rejecting the car, so I don't consider I have reasons to uphold his complaint.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 16 March 2026.

Caroline Kirby
Ombudsman