

complaint

Miss W is unhappy with the amount of compensation Motability Operations Limited (MO) has paid her to compensate her for a car that had faults that made it unsafe to drive.

background

At the end of October 2016 Miss W bought a car using a hire purchase agreement financed by MO. She paid an advance rental amount of £1849, and spent about £600 on “extras” for the car. She was to pay an amount equal to her monthly allowance for transport for 39 months, after which she would have the opportunity to buy the car outright if she wanted.

In early 2018 – more than a year after Miss W got the car, she contacted MO to say she’d been having problems with the gearbox, the car veering to one direction and the satnav system. The car was looked at and the veering and satnav issues were resolved. MO said the garage looking at the car couldn’t find a problem with the gearbox. It says it offered to change the car for Miss W if she wanted that.

Miss W didn’t want that, but continued to complain, saying the fault was life threatening as it meant a gear couldn’t be selected when needed – but it was also intermittent.

MO arranged for the car to be inspected using an independent agency – that report said no fault was apparent. In recognition of the problems Miss W had had, MO paid some compensation and refunded some of her rental payments, as well as contributing to her transport costs. That came to £722. It also provided a hire car for part of the time her own car was off the road.

MO then said it would pay for another test by a different inspector, but she didn’t want that. So it said she could return the car early and it would refund her advance rental and some other costs. Miss W didn’t want to do that either.

Miss W was unhappy about what was happening and brought her complaint to us. While we were reviewing the complaint, Miss W agreed that the car could be re-tested (in October 2018) and the gearbox was examined. It showed excessive wear and was repaired.

Miss W then said she’d lost faith in the car and wanted to return it. MO agreed that she could do that without paying a charge normally raised when a car is returned early. It said it would also refund the advance rental and the £600 she spent on extras. Finally it said it would pay £1,768 compensation for the trouble Miss W had had.

Our investigator looked at what had happened, and he thought MO’s offer was fair. He didn’t recommend Miss W’s complaint should be upheld.

Miss W doesn’t think it reflects the fact that her life has been in danger – nor the fact that she’s not done much mileage in the car so MO will make a profit when the car is sold on.

I’ve been asked to decide this complaint.

my findings

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

I've read (or watched in the case of videos) all the information Miss W has sent us. And I've read the information MO has provided too. I'm not going to comment on everything I've seen: instead I'll concentrate on what I think are the key issues.

In some circumstances the provisions of the Consumer Credit Act means a lender can become responsible for the quality of goods bought on credit. So Miss W was entitled to complain to MO about the quality of the car she bought.

The usual approach to issues like this is that if a major fault occurs within the first six months or so of owning a car, then I'd expect a lender to show it *didn't* exist at the point of sale, if it doesn't want to repair the car. If the fault occurs after about six months then it's reasonable to ask a customer to provide some evidence the fault *did* exist when the car was bought.

Miss W had been driving her car for more than a year before she told MO about these problems. There had been an issue with heavy steering previously, but I understand that was resolved in 2017. I think it's fair to say MO couldn't do anything about the latest problems until it knew about them.

Miss W told MO that some of the problems she was describing started within a few months of her owning the car. So MO agreed to look at it for her. That was a fair thing for it to do. Some repairs were carried out and haven't reappeared. However, the main problem Miss W was having was that she couldn't get the car into gear on occasions, which I'm sure was very worrying for her if she was driving at any speed. The garage that looked at the car couldn't replicate the fault, so MO said it wouldn't pay for a repair to the gearbox. It did give Miss W the option of returning the car early. I think that was a reasonable offer, and it was up to Miss W to decide if her concerns about the car were enough to prompt her to return it.

Instead Miss W continued to tell MO the fault was present, albeit intermittent, and about three months later MO arranged for an independent report on the gearbox, but again no fault was found. I can see from MO notes that it offered to have the car inspected by another engineer in April 2018, but Miss W wasn't willing to do that unless MO stripped the gearbox to find the fault. MO didn't want to do that given no fault had been found – but again it offered to take the car back. I think that was a fair thing to offer, in these circumstances. It appears Miss W declined that offer because she wanted to keep the registration plate. I think it was clear, that from early on in this series of events, Miss W could have had a replacement car if she thought the problem was severe.

MO continued to offer a second engineers opinion, and after about six months Miss W agreed. That report did say the gearbox was excessively worn. It gave three potential reasons for this – two of which were attributed to driving style and one to a possible fault with the car. The engineer didn't think the gearbox components had been faulty when the car was sold. Based on this MO arranged for the car to be repaired.

Miss W then said she'd lost faith in the car and wanted to return it. I think MO could reasonably have refused this request, given it had paid for the repairs and Miss W had said the car was operating normally. Instead MO agreed to take the car back, and it's returned the advance rental, the cost of the extras and some additional compensation because of the problem Miss W had had.

Overall MO has paid about £5,000 to Miss W. Part of that is a refund of payments and expenses she's had. And about half of it is to make up for her inconvenience. It's also

provided her with a hire car when her car was off the road. I think that's a generous response in these circumstances, because I don't think MO has done much wrong. I say that because I think it reasonable MO should rely on its expert reports initially, and it arranged repairs as soon as a potential fault was identified, despite it being unclear exactly what had caused the problem. I see no reason to think it would have acted any less quickly if Miss W had agreed to the inspection when it was first offered in April – which could have sorted things out months earlier. And Miss W has also had the option to return the car since early 2018, if she wanted to.

Miss W says MO will make a large amount of money because it will get a car back that's done very little mileage. Miss W can't know that. And what MO does with the car once it's returned isn't something she – or this service – can reasonably have any interest in. I don't think this is a reason to increase the compensation Miss W has been offered.

Miss W also says MO doesn't want to deal with her in the future. I haven't seen any evidence of that, and I see it offered to change the car for her as it would normally do in 2019 with no penalties. I understand Miss W was going to do that in early 2019, as that timing suited her. That seems reasonable to me.

Miss W says she expected this service to help her negotiate a settlement with MO. I've already said I think MO's responses have been fair, and have gone further than necessary. So I don't think she's been disadvantaged by MO making the offer it has.

I do appreciate Miss W has been worried about this car for a long period of time. But she's had options to return it and/or have it inspected, which she's declined. Overall I don't think MO did much wrong and I think the compensation it's paid is fair.

my final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 14 April 2019.

Sue Peters
ombudsman