

The complaint

Mr G complains that Motability Operations Limited didn't correctly handle his Data Subject Access Request (DSAR) and that Motability Operations Limited has breached the Equality Act 2010 in its dealings with him.

What happened

On 3 January 2023, Mr G requested, by email, copies of all data relating to him held by Motability Operations. He says that Motability Operations said it sent a response by post on 31 January 2023 but as he has no access to post due to his disability he didn't know if a response had been sent. Mr G says that he had made several requests that he is corresponded with by email due to his disability and thinks that Motability Operations has breached GDPR and the Equality Act 2010 in its actions.

Motability Operations issued final a response in April 2023. It said that it had acknowledged Mr G's request for all future correspondence on a separate complaint to be sent by email, but it hadn't applied this reasonable adjustment more widely across the business. It said this was a mistake and resulted in Mr G's DSAR not being handled in the correct way.

Regarding Mr G's DSAR, it said part of the response included call recordings that were too large to send by email, so they were put on a USB stick and posted to Mr G. This USB stick was returned, and it contacted Mr G about this. The call recordings were then sent to Mr G electronically, but it acknowledged that this issue had caused Mr G stress and inconvenience. It confirmed that it would look to ensure Mr G's reasonable adjustment was adhered to when documents needed to be sent to him. It said it would make a £250 goodwill payment to Mr G in response to the experience he had.

Mr G wasn't satisfied with Motability Operation's response. He said by failing to comply with the GDPR by not sending him the requested data in line with his request and within the required timescale he suffered further injury to his feelings. He didn't accept the compensation provided by Motability Operations was enough and said that if his case went to court, he would likely be awarded more than £9,500 plus costs.

Our investigator didn't uphold this complaint. He noted that Motability Operations made a mistake by sending the initial response to Mr G's DSAR through the post. But he said that when it was informed of this it acted quickly and fairly in making arrangements for the information to be sent electronically. Given this he thought the £250 compensation it awarded was reasonable.

Mr G didn't agree with our investigator's view. He said the view failed to consider Motability Operation's failure to make reasonable adjustments and the impact this had on him. He said his case is one of disability discrimination and the compensation provided was derisory.

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.

Mr G has raised concerns about Motability Operations actions in regard to both the GDPR and the Equality Act 2010.

Our role isn't to decide if a business has breached data protection laws. This is for the Information Commissioner's Office, and I can see Mr G has contacted it in regard to this matter. However, we can decide whether it is fair for the business to pay compensation to the consumer or take any other action to recognise the impact of what's happened.

Mr G has also said that Motability Operations has discriminated against him by not taking on board his reasonable adjustments. While we take any allegation of discrimination seriously, we are an informal dispute resolution service, meaning we don't have the power to decide whether or not Motability Operations is in breach of the Equality Act 2010, as only a court has the power to do this. What we can do is take relevant law and regulation into account when deciding what's fair and reasonable in the circumstances of a complaint.

Taking the above points into account, I have assessed Mr G's complaint based on what I consider fair and reasonable given its specific circumstances. Having done so I find that Motability Operations has done enough in response to the issues raised. I have explained my reasons for this below.

Motability Operations explained that Mr G's reasonable adjustment of receiving all communication by email had been applied to its dealings with him on a complaint he raised but it hadn't been implemented more widely throughout the business. Because of this part of the response to his data request was sent by post. This was a mistake and Motability Operations acknowledged this.

When a mistake has been made, we expect the business to put the customer back in the position they would have been had this not occurred, and where appropriate we will award compensation. In this case, when Motability Operations was made aware of the issue of sending the call recordings by post it responded quickly to amend its usual approach and sent the call recordings electronically. Motability Operations has also confirmed that the reasonable adjustment of Mr G receiving all correspondence by email has been implemented on its systems. Given this I find that Motability Operations has taken the actions required to put Mr G back in the position he would have been had the mistake not occurred.

Mr G has said this issue caused him stress and inconvenience and he doesn't think the compensation offered by Motability Operations was enough. He has made reference to other compensation awards, specifically the Vento bands. I note the comment but in this case, I have assessed what I consider fair and reasonable and this service has its own approach to awarding compensation in regard to this.

Having looked at the issues and timings involved in this complaint I find the £250 Motability Operations awarded is fair. I say this because Mr G's data request was sent on 3 January 2023 and Motability Operations acknowledged this and said it would revert within 30 days and that it would respond to Mr G's request by email. An email was sent to Mr G on 31 January 2023 attaching the documents he had requested (this was the main response to his request). This was within the 30 days of his request and in line with his communication preferences.

However, the email sent on 31 January 2023, also noted that the call recordings Mr G had requested had been sent by post on a USB stick (and it provided a password). Mr G didn't contact Motability Operations at that time and had he done so it could have resolved the

issue sooner. Instead, Motability Operations emailed Mr G on 28 February 2023 when the USB stick had been returned. Mr G then explained the issue with receiving items by post and raised his complaint about the actions Motability Operations had taken. Motability Operations took measures to ensure the call recordings could be sent electronically. So, while these weren't received by Mr G until 6 March, I find that Motability Operations responded quickly when the issue was identified and sent the call recordings in the appropriate format within a week.

Based on the above and considering the impact on Mr G of the mistake that was made, I think the compensation Motability Operations awarded in this case was reasonable.

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 Mr G to accept or reject my decision before 14 November 2023.

Jane Archer
Ombudsman