

## **The complaint**

Mr M complains that a car acquired with finance from BMW Financial Services (GB) Limited trading as BMW Financial Services wasn't of satisfactory quality.

## **What happened**

In May 2021 Mr M was supplied with a car and entered into a hire purchase agreement with BMWFS.

Mr M experienced some issues with the car. He complained to BMWFS in June 2021 and provided evidence of the faults. In November 2021 BMWFS issued a final response and said it didn't accept Mr M's request to reject the car because he hadn't raised his complaint within the first 30 days.

Mr M wasn't happy with the response and complained to this service. In the meantime, he's sold the car and settled the agreement. He wants compensation for the issues he experienced with the car whilst it was in his possession, and for the incorrect mileage stated on the agreement.

Our investigator upheld the complaint. She said there were faults with the car as evidenced by the diagnostic report dated July 2021. The investigator said she'd requested further evidence and arguments from BMWFS, but it hadn't responded, so she reached her view based on the available information. The investigator said that although Mr M had sold the car for less than he paid for it, it wouldn't be fair to ask BMWFS to reimburse the shortfall because Mr M had used the car for several months and had added mileage to it. The investigator recommended that BMWFS should pay compensation of £150 to Mr M to reflect the distress and inconvenience caused.

Mr M didn't agree. He said the mileage on the agreement was incorrect and that the car was now being advertised for sale for a higher price than he'd paid for it.

## **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.

The Consumer Rights Act 2015 is relevant to this complaint. It says that goods must be of satisfactory quality when supplied. Cars are of satisfactory quality if they are of a standard that a reasonable person would regard as acceptable, taking into account factors such as the age and mileage of the car and the price paid.

Under the Consumer Rights Act 2015, where a fault occurs in the first 30 days, the consumer has a short term right to reject. If a fault occurs in the first 6 months, there's a presumption that the fault was present or developing at the point of supply and it's up to the business to put things right. The business is allowed one opportunity to repair the car. If the repair isn't successful, the consumer can reject the car.

I've looked at the available evidence. This is limited, because BMWFS didn't provide information to the investigator when it was requested. I can see that Mr M obtained a diagnostic report in July 2021. This evidence shows several fault codes. Based on what I've seen, it seems likely that there was a fault with the car.

Mr M has said that he asked to reject the car when he became aware of the faults in June 2021. His request to reject was made outside of the first 30 days of the agreement, so he couldn't rely on his short term right to reject.

I haven't seen any evidence to suggest that any repairs were attempted. Mr M has said that he continued to experience the issues whilst his complaint to BMWFS was ongoing. I don't have enough information about the faults to comment any further on them, so I can only look at the service Mr M received from BMWF when he asked to reject the car.

Mr M has said that he sold the car for around £1500 less than he paid for it. He's also said that the mileage shown on his finance agreement was lower than the actual mileage when the car was delivered to him.

Mr M has been able to use the car despite the issues, so this isn't a case where a refund of monthly payments is appropriate.

I can see that BMWFS took quite a long time to investigate Mr M's complaint and when it issued its final response, it failed to address all the issues that Mr M had raised about the mileage. And although I don't think the mileage issue has impacted on Mr M in terms of what he sold the car for, it's an issue that BMWFS should have investigated and addressed in its final response.

I appreciate that Mr M feels that he should be compensated for the difference between what he paid for the car and what he sold it for. However, I haven't seen any evidence to suggest that the car was sold for less because of the issues that Mr M experienced with it. And I can see that Mr M used the car for several months and put mileage on it. In the circumstances, I don't think it would be fair to ask BMWFS to compensate Mr M for the difference.

### **Putting things right**

It's clear that Mr M has been caused distress and inconvenience as a result of the issues with the car, and by BMWFS's failure to address all of his complaint points in its final response. I think it's reasonable to ask BMWFS to pay £150 compensation to reflect this.

### **My final decision**

My final decision is that I uphold the complaint. BMW Financial Services (GB) Limited must pay compensation of £150 to Mr M.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 28 March 2022.

Emma Davy  
**Ombudsman**