

The complaint

Mrs B complains that a service plan, financed through an agreement with BMW Financial Services (GB) Limited ("BMWFS"), was mis-sold to her.

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here. Instead I'll focus on giving my reasons for my decision.

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.

I know it will disappoint Mrs B, but I agree with the investigator's opinion. Please let me explain why.

Where the information I've got is incomplete, unclear, or contradictory, as some of it is here I have to base my decision on the balance of probabilities.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

Mrs B acquired her car under a hire purchase agreement. This is a regulated consumer credit agreement and as a result our service is able to look into complaints about it.

Section 56 of the Consumer Credit Act (1974) explains that finance providers are liable for what they say and for what is said by a credit broker or a supplier before the consumer takes out the credit agreement.

So, if Mrs B was given a false statement of fact and if that false statement of fact led her to enter into an agreement she wouldn't otherwise have entered into, I would think it had been misrepresented to her and I'd ask BMWFS to take some further action.

Mrs B suggests that false statement of fact is that the service pack would cover two services within the first three years. She says she wasn't aware there was a mileage limit (36,000 miles) and as her contractual mileage was 20,000 miles per year she was always likely to exceed that mileage limit before the second service became due.

I'm not persuaded that a false statement of fact was given. I say that because:

- The service pack provided what was advertised. Two services within three years or 36,000 miles.
- Despite the high annual mileage, Mrs B would still have been able to benefit from the second service as the investigator has explained that the manufacturer says services should be completed roughly every 15,000 miles. I think a request for a second

service before the car warned of the need would therefore have been likely to have been approved.

- Whilst I understand that the service light didn't illuminate so early I still think it's reasonable to expect Mrs B to have been aware of the manufacturer's recommendations. It was, after all, her responsibility to ensure the car was adequately serviced under the terms of the finance agreement.

So, I'm not persuaded that this agreement was misrepresented to Mrs B and I'm not asking Moneybarn to take any further action.

My final decision

For the reasons I've given above I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 23 March 2022.

Phillip McMahon
Ombudsman