

The complaint

Mr E complains about the interest applied to a settlement balance of a hire purchase agreement with BMW Financial Services (GB) Limited ("BMW").

What happened

In March 2017 Mr E acquired a new car through a hire purchase of agreement with BMW. The purchase price of the car was £63,700. Mr E paid a deposit of £500, so the total amount financed on this agreement was £63,200 payable over 49 months.

Mr E explained that due to a change in his financial circumstances, from March 2018 he was no longer able to maintain the repayments on his agreement with BMW. Mr E says he told BMW about his financial situation and tried to arrange a repayment plan with them.

BMW's internal notes confirms Mr E informed them in June 2018 that he wasn't able to maintain his repayments. The notes also confirm that over the following months Mr E had tried to arrange the repayment of the arrears but was unable to do so.

In August 2018 BMW recovered the car from Mr E as the agreement was in arrears. In November 2018 BMW wrote to Mr E to say the car had been auctioned and that he had an outstanding balance of £14,220.66, which included an interest rebate amount on his agreement. The settlement details were outlined on the statement of liability which accompanied the letter that BMW sent to Mr E. BMW advised Mr E that he'd be entitled to the rebate if he contacted them within 14 days to arrange the repayment of the balance.

In December 2018 Mr E was contacted by a third-party debt management agency requesting that he repay £19,951.04 to settle his agreement with BMW. BMW said that amount included the interest up until the natural end of the agreement. BMW said if the debt was handled by them, Mr E would have been entitled to the rebate amount. However, as the debt wasn't able to be repaid within 15 months it had to be transferred to a debt collection agency and the interest would be added. BMW also advised if the amount was paid by the natural agreement end, he'd also be entitled to the rebate.

In April 2021 Mr E emailed BMW to say that he'd been trying to get hold of them for several months. Mr E explained that due to the size of the balance and changes to his work he wasn't able to pay the full amount. However, in May 2021 Mr E came to an arrangement with BMW to repay around £500 per month towards the balance.

Mr E brought his complaint to our service in July 2019 and in August 2021 BMW provided their final response to his complaint. BMW explained that although a repayment plan had been arranged, as the repayment plan wouldn't clear the balance within 15 months the debt was to be transferred to the debt collection agency to oversee and so the interest rebate couldn't be applied.

One of our investigators looked into Mr E's complaint and didn't think that the complaint should be upheld. The investigator felt that BMW applied the terms of the rebate correctly and so didn't think they needed to remove it.

Unhappy with the investigator's view, Mr E asked that his complaint be referred to an ombudsman for a final 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.

In considering what is fair and reasonable, I've thought about all the evidence and information provided afresh and the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and (where appropriate) what I consider to have been good industry practice at the relevant time.

The agreement in this case is a regulated hire purchase agreement. As such, this service is able to consider complaints relating to it.

The Consumer Credit (Early Settlement) Regulations 2004 (CCR) is relevant in this case. It says that a borrower is entitled, under a regulated consumer agreement, to a rebate whenever early settlement of the agreement takes place. It also provides guidance on a date by which the debt should be settled. It says that in certain circumstances, for example where notice of termination of the agreement has been given, the date of settlement in relation to the rebate shall be the date specified by the business in relation to any termination notice given.

In consideration of this, I've thought about whether BMW acted fairly in removing the interest rebate from the outstanding balance on Mr E's agreement with them.

Given that BMW had terminated Mr E's agreement because of the arrears, I think it's fair to say BMW had served a notice as per the CCR. Under the CCR, BMW were entitled to specify a settlement date in relation to the rebate. And so, I think it's fair that BMW had put a deadline in place.

Mr E says that he hadn't received the letter with the deadline but also said that he tried to contact BMW within that time frame but experienced long waiting times and so wasn't able to get through. BMW's internal system notes show that Mr E had made contact with them on different occasions in 2018. I also haven't seen any evidence to say Mr E was prevented from contacting BMW during November 2018, which is when the 14-day deadline would have expired.

In addition, I haven't seen any evidence that Mr E had made any arrangements to repay the debt shortly after the deadline had passed. So, I don't think it's likely that Mr W would have arranged repayment of the debt had he contacted BMW within 14 days of receiving the statement of liability.

According to BMW's internal system notes, Mr E phoned BMW in December 2018 regarding the outstanding balance on his agreement. Mr E was told that even had he made contact within the 14 days, if he wasn't able to arrange a repayment of the debt within 15 months the debt would have still been transferred to the third party debt collection agency and so wouldn't have included the interest rebate.

I can also see from the internal system notes, that In April 2019 Mr E was told by BMW that unless the debt is managed by them, they'd be unable to include the rebated amount. So, I'm persuaded that even outside of the 14-day deadline BMW were willing to apply the interest rebate to the balance if Mr E was able to arrange a suitable repayment plan with

them. As Mr E wasn't able to do so the interest rebate wasn't applied. So, in any case I think Mr E was given the opportunity by BMW to make the necessary arrangements to qualify for the rebate even outside of the 14-day timescale.

Having considered everything I'm satisfied that BMW acted fairly in how they applied the interest rebate to the settlement amount and the 14-day timescale that was attached to it.

My final decision

Having thought about everything above along with what is fair and reasonable in the circumstances I don't uphold Mr E's complaint against BMW Financial Services (GB) Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 24 April 2022.

Benjamin John
Ombudsman