

The complaint

Mr C complains about the refurbishment charges he has been asked to pay by BMW Financial Services (GB) Limited ("BMWFS"), trading as Alphera Financial Services, since he returned a car he was financing through an agreement with them.

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'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.

I agree with the conclusions reached by the investigator for these reasons:

- Mr C acquired his 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.
- The terms of the finance agreement held Mr C responsible for keeping the car in good repair and condition. He would be responsible for any damage to or deterioration of the vehicle in excess of fair wear and tear.
- The industry guidelines for what is considered fair wear and tear when vehicles are returned at the end of their lease, is provided by the British Vehicle Rental and Leasing Association (BVRLA).
- Mr C accepts the charges for damage to the bonnet and bumper but doesn't accept those for refurbishment of scratches to the quarter panel and door. I've considered the photographs of the damage to those areas that are provided in the inspection report completed at handover.
- The BVRLA guidance says that scratches up to 25mm are acceptable and these scratches are a little more than that. But, this wasn't a new car when it was supplied, and I think it is fair to take into account the age of the car. It was about seven years old when it was returned, and I think a reasonable person would therefore expect more wear and tear to be present than they would when returning a new car after a similar lease. I think the extent of the damage is minimal and in line with what a reasonable person would consider reasonable wear and tear on a car of that age and I don't think it's therefore fair for BMWFS to levy a charge.

- BMWFS have directed me to the Consumer Rights Act (2015) which explains in section 9 that where the consumer examines the goods before the contract is made, and where that examination ought to reveal a fault, then we shouldn't consider that fault a reason to find the goods of unsatisfactory quality. But if the scratches were on the car when it was supplied, and if Mr C accepted the car in that condition, it wouldn't be a reason for BMWFS to charge him to subsequently repair those scratches. So, I don't find that argument compelling.

So, I uphold the complaint.

Putting things right

BMWFS should waive the charges they've made for refurbishment to the door and quarter panel.

My final decision

For the reasons I've given above I uphold this complaint and tell BMW Financial Services (GB) Limited to waive (or refund if already paid) the charges they've made for refurbishment to the door and quarter panel. They should also remove any adverse reports they may have made to Mr C's credit file in relation to this issue.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 1 August 2022.

Phillip McMahon
Ombudsman