

The complaint

Mr M is unhappy that BMW Financial Services(GB) Limited (BMWFS), reported negative information on his credit file after he voluntarily terminated his hire purchase agreement.

What happened

In July 2017, Mr M entered into a hire purchase agreement with BMWFS to acquire a car first registered in October 2012. The cash price of the car was around £15,500. The amount of credit was around £14,550. Mr M provided an advance payment of around £950, and there were 48 monthly repayments of around £250 followed by an optional final payment of approximately £6,229, plus an option to purchase fee of £1.

In May 2020, Mr M chose to return the car early by exercising his right to voluntarily terminate the agreement. When Mr M returned the car, he still had £138 owing on the agreement. So, to clear the balance he agreed a three-month payment plan with BMWFS to make three payments of £45.60 in the months of September, October, and November of 2020.

Also, when the car was returned there were some end of contract charges that Mr M was responsible for. In October 2020, Mr M contacted BMWFS and he said he was unhappy as he received two notices of default for approximately £656. He said that this was less than 30 days after receiving an invoice from BMWFS. He said that he doesn't dispute these and he intends to pay them, but he was unhappy that BMWFS had not contacted him regarding this, especially as they would've been aware of another payment arrangement that he had with them at the time. In this correspondence, he said he wanted to agree a payment arrangement for the end of contract charges, and he was not happy this was showing up as arrears on his credit file. He also said that he tried to call them several times without any success.

In January 2021, BMWFS contacted Mr M and said that he needed to call them to set up a payment plan for the remaining balance. So, while they appreciate that he kept on making the payments of around £45.60 each month, no actual arranged payment plan had been agreed and put in place. They explained that due to Covid-19 their telephone lines were busy, but they were working so he should call and wait until he gets through. BMWFS's contact notes show that in April 2021, Mr M contacted BMWFS and a payment plan was put in place. This was for another 10 months of Mr M making payments £45.60 and one final payment of £17.34.

Mr M was unhappy that BMWFS was reporting adverse information on his credit file including missed payments, so he brought his complaint to this service.

Our investigator thought that BMWFS should remove adverse information reported on Mr M's credit file, but didn't think they needed to pay any compensation for the distress and inconvenience caused.

Mr M disagreed, so the complaint has been passed to me to decide.

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 need to take into account the relevant rules, guidance, good industry practice, the law and, where appropriate, what would be considered to have been good industry practice at the relevant time.

Where evidence is unclear or in dispute, I reach my findings on the balance of probabilities – which is to say, what I consider most likely to have happened based on the evidence available and the surrounding circumstances.

Mr M acquired the car under a hire purchase agreement, which is a regulated consumer credit agreement. Our service can look at these sorts of agreements.

In August 2021, when BMWFS wrote to Mr M, they said that because no payment arrangement had been put in place, they felt they were within their right to report the adverse information to the credit reference agencies.

However, Mr M kept making payments without having an arranged payment plan and it was not until January 2021 that BMWFS clearly explained this to him, which was a few months after he initially contacted them. I think there was some confusion on both sides, and I think that BMWFS could've done more to clearly explain to Mr M that he needed to set up a separate payment plan for the end of contract charges. So, I think it is fair and reasonable that they are now happy to remove any adverse information reported on Mr M's credit file regarding the repayment of the end of contract charges.

Mr M also feels that BMWFS should write off the remainder of the money he owes them to properly reflect the impact this situation had on him. He said that he spent a lot of time dealing with this issue. So, I've taken into consideration everything he told us about the impact of BMWFS's mistake had on him, and I've taken into consideration the time it took BMWFS to rectify the situation. Considering everything, I think that Mr M at times also took too long to contact BMWFS, especially after January 2021 when they told him that he needed to call them to set up a repayment plan. So, I think that BMWFS agreeing to remove any adverse information reported on his credit file regarding the repayment of the end of contract charges is fair. And I don't think that BMWFS needs to write off the remaining balance or pay Mr M any other compensation.

I've also taken into consideration that Mr M says that he was unable to get credit while the information on his credit file was being incorrectly reported. So, I've considered this, but I've not seen enough evidence for me to conclude that BMWFS's reporting of adverse information on Mr M's credit file was most likely the reason for Mr M directly incurring a loss. From the available evidence, I haven't seen anything to suggest that the adverse information recorded on his credit file was why he couldn't obtain credit. So, I can't say that most likely it's BMWFS's action that directly caused him a financial detriment.

So, while Mr M has my sympathy, I don't think it would be fair or reasonable to ask BMWFS to write off the remaining balance or pay him any compensation.

My final decision

My final decision is that I uphold this complaint, and I require BMW Financial Services(GB) Limited to take the following actions:

- Remove any adverse information, including missed payment markers, recorded on Mr M's credit file in relation to the end of contract charges for his hire purchase agreement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 26 July 2022.

Mike Kozbial
Ombudsman