

The complaint

Miss H is unhappy with the way BMW Financial Services (GB) Limited trading as Alpheria Financial Services have treated her when a car she acquired under a hire purchase agreement was involved in a car accident.

Miss H is represented in this complaint. But for ease, I'll refer to Miss H throughout my decision.

What happened

In May 2019, Miss H entered into a hire purchase agreement to acquire a used car. The total amount of credit was £11,938 and the agreement was for a duration of 48 months. Miss H had paid a cash deposit of £300 and received £2,400 in part exchange for her old car. The monthly repayments under this agreement were £176.02.

On 24 December 2020, Miss H says she there was an incident with her car where it slid on ice and caused significant damage to the car. Miss H's car was then taken to an impound by the police. On the same day, the police told Alpheria that the reason Miss H's car was seized was because it had been abandoned at the incident site.

Miss H says she has a disability and suffers from mental health. So, when Alpheria asked why she abandoned the car, she said she panicked and wanted to get home – Miss H left the car because she wasn't sure what else to do. To release the car, Miss H says Alpheria asked her to provide proof of her disability. Miss H says she initially wasn't happy to provide this, but then she did in order to get her car back. However, Alpheria then lost this information which she feels is a breach of her personal data. Miss H feels Alpheria have discriminated against her when asking for evidence of her disabilities.

Miss H then contacted Alpheria to explain the incident had been reported to her insurer and asked Alpheria to contact them about collecting the car. From Alpheria's contact notes, it seems they contacted Miss H's insurer; however, they wouldn't discuss the matter with them. On 31 December 2020, Alpheria spoke to Miss H to confirm instructions would be sent to release the car from the impound to the insurance company as they'd received evidence of Miss H's disability. Miss H says Alpheria delayed the release of her car which then resulted in her losing her job as she didn't have a car for work. When the insurers collected and inspected the car, they deemed it beyond economical repair so a settlement quote for the agreement was provided on 12 January 2021 to Miss H.

Miss H has also complained about the settlement figure Alpheria provided her with as she feels this is incorrect. Miss H says she initially asked for a settlement figure in August 2020. And that she was told the settlement amount was £10,953.19. However, the settlement amount Alpheria provided on 12 January 2021 was different and that it was £10,924.09. Miss H says she made payments towards the account between when the first settlement figure was produced to the second. So, Miss H feels the payments she made during the first figure being provided and the second, haven't been taken into consideration when the settlement amount was calculated. In relation to this, Alpheria said Miss H was given a two-month payment deferral due to Covid-19 in October 2020 and again in November 2020. And that

the settlement figure took into account the deferral period. Alphaera confirmed since then, Miss H paid the settlement amount of £10,097.53 and the agreement ended in January 2021.

Miss H has also complained about the customer service she received from Alphaera. She explained that she had to make several phone calls to Alphaera but spent a long time trying to successfully get through to someone, there were instances where the line cut off and that no one called her back.

Alphaera apologised for the poor customer service Miss H experienced. They explained that due to Covid-19, they were very busy dealing with customers who had called them which caused a strain on their phone lines leading to longer wait times to get through to someone. Our Investigator looked into Miss H's concerns. He said that from the available evidence, Miss H had received an interest rebate which was in line with the Consumer Credit (Early Settlement) Regulations 2004. So, he didn't think Alphaera had calculated Miss H's early settlement incorrectly. Our Investigator also looked into what happened when Miss H's car was seized by the police and when it was then released. And he said he didn't think there were any unreasonable delays caused by Alphaera.

Lastly, our Investigator considered what Alphaera said about asking Miss H for evidence of her disability and didn't think they had a legitimate reason to ask for this as he didn't think this impacted the decision to provide their authority to release Miss H's car from the impound. However, he said it wouldn't be for him to say whether Alphaera breached the Equality Act 2010 and discriminated against Miss H as this would be a matter for the courts. Our Investigator also recognised the service Miss H received from Alphaera and concluded that it could have been better at times. So, for these reasons, our Investigator felt Alphaera should pay Miss H £150 compensation.

Miss H responded and was happy with the compensation amount recommended by our Investigator. Alphaera responded and said while they didn't disbelieve the reasons Miss H gave for abandoning the car at the time, they needed evidence to support the disabilities she said she suffered from. Alphaera also said our Investigator's view hadn't considered, nor mentioned, the constraints they suffered due to Covid-19, so they didn't think it was fair that our Investigator concluded the customer service could have been better at times. However, Alphaera said they were prepared to offer Miss H £75 for any stress and inconvenience caused to her. But our Investigator remained of the opinion that £150 was fair compensation. So, the complaint has been passed to me to decide.

I issued a provisional decision setting out the below:

Delays in releasing the car

I understand Miss H was concerned about the length of time it took for her car to be released from the impound.

Having looked at Alphaera's notes, I can see they were first notified by the police that the car had been seized on 24 December 2020. In this same email, the police advised Alphaera that the car won't be released unless Alphaera directed them to do so.

Then on 29 December 2020, I can see from the notes that Alphaera emailed Miss H to let her know that they attempted to contact her but were unsuccessful. They asked Miss H to call them on the telephone number they provided.

Miss H's Mother (who was authorised to speak to Alphaera on Miss H's behalf) then called Alphaera on 30 December 2020 and explained that she was attempting to get Miss H's car

released from the impound. Alphera let Miss H's Mother know that they'll find out more and would call Miss H once they had more of an update. Alphera called Miss H's car insurance provider the same day and asked them to confirm if they were willing to collect Miss H's car from the impound.

The notes then show Alphera attempted to call Miss H on 30 December 2020 to let her know that her insurance company weren't prepared to discuss the matter with them. But Alphera weren't able to get through to Miss H and left her a voicemail. Miss H's Mother called back and Alphera explained to her that they needed evidence of Miss H's disabilities. Once Miss H's Mother provided this on 31 December 2020, I can see that Alphera sent an email to the police providing their authority for the car to be released and collected by Miss H's car insurance company only.

So, in summary, it took around a week for the car to be released once it had been seized and taken to the impound. But I've also considered the fact that this was happening over the Christmas period and there were bank holidays which naturally would have caused some delays. Having carefully thought about this, I don't think Alphera caused any unnecessary delays. I say this because Alphera were attempting to liaise with Miss H's car insurance provider to find out the outcome of her claim and if repairs had been carried out on the car. Alphera's notes also say that they needed confirmation as to why Miss H abandoned the car at the time before they agree to releasing the car. Miss H's Mother confirmed to Alphera that Miss H suffered from a disability and mental health which she provided evidence of along with confirmation of the claim with her insurance company for the repairs while she was on the phone to Alphera on 31 December 2020. I can see on the same day, Alphera provided their authority to the police to release Miss H's car from the impound.

I appreciate Miss H says her car being kept at the impound impacted her job as she didn't have the car. However, it seems from Alphera's notes that the car wasn't in a driveable condition due to the damage caused. So, it's likely Miss H wouldn't have been able to drive the car even if she was able to retrieve it sooner.

Miss H's concern about disability discrimination

Miss H says she's unhappy Alphera asked for proof of her disability before giving their authority for the car to be released. So, Miss H feels she was treated differently because of this.

Firstly, it might be helpful for me to set out that this service is unable to make findings on whether or not something constitutes discrimination as per the Equality Act 2010. This is because we are an informal free alternative to the Courts. Only a court of law can make a legal finding based on the definitions set out within the act. I know this will be frustrating for Miss H but unfortunately because it's outside this service's remit, I am unable to provide her with such an answer. However, I can consider whether or not Alphera have acted in a fair and reasonable manner, and in order to do that I will take a number of things, including the Equality Act 2010, into consideration.

Having looked at the information provided by Alphera, I can see they asked for evidence of Miss H's disability when her Mother let them know the reason Miss H abandoned the car. Alphera say the reason they asked for this evidence was because Miss H said she abandoned the car because she suffers from a disability and didn't know what to do. Alphera said evidence of this disability was required in order to release the car from the impound. Alphera also explained if they didn't ask for evidence, any of their customers can call and say they are suffering from disabilities without providing evidence.

While I don't find it unreasonable for Alphera to find out why the car was abandoned at the

time, given the nature of the circumstances, I think Alphera ought to have provided Miss H with an explanation as to why evidence of her disabilities was needed in order to release the car from the impound. Alphera say they asked for this to provide Miss H with the correct assistance. But then Alphera have said they needed the evidence so they could provide their authority for the car to be released - so it's unclear what assistance Alphera were looking to provide Miss H with. In addition to this, it's not clear to me exactly why evidence of Miss H's disability was required in order to give authority for the car to be released from the impound.

I note Alphera have said they attempted to contact Miss H on a number of occasions and that there were discussions with their collections and recovery teams. Therefore, on balance, Alphera say Miss H was likely provided with the reason why they required this evidence in order for the car to be released. However, I can't see from the notes that the reason for the evidence was provided to Miss H. Instead, it's noted that evidence was required with no further explanation.

In any event, as I mentioned earlier, I don't necessarily think it was unreasonable for Alphera to understand in more detail the disabilities Miss H suffered from in order to consider any reasonable adjustments to support Miss H. But given Miss H's vulnerability, asking for this evidence without a reasonable explanation why would have compounded the stress and mental health issues Miss H was already suffering from. So, I think Alphera should pay Miss H £150 compensation in recognition of this.

Miss H says when she sent the evidence in, Alphera lost the email so she says there's been a breach of her personal information. I can see from Alphera's notes that two emails were received on 31 December 2020. While I don't have a copy of these emails, the notes show they were sent by Miss H's Mother and one included a picture image which I think is likely to be the medical evidence Alphera asked for. I say this because I can see this email was sent while Miss H's Mother was on the phone to Alphera when they asked for medical evidence. The other email was from Miss H's mother which was a picture image of the insurance claim Miss H had made. I haven't seen anything to persuade me the emails were lost and there's no mention of potential lost information on Alphera's internal notes. Instead, I can see that the emails were received.

Customer service

I note Miss H has said she made several attempts to contact Alphera in December 2020 about her car but wasn't able to get through to someone. Miss H says she spent several hours on the phone and often the line cut out. I can see from the contact notes Alphera provided us with that there were times when Miss H told Alphera she'd been on hold for a very long time, the call had previously cut out and that there were also times she was struggling to get through to anyone before then successfully being able to speak to an advisor.

I can understand Miss H's frustrations, especially as she wanted to get her car back and she needed Alphera's help in order to do this. However, Covid-19 was unprecedented and a lot of businesses like Alphera, were dealing with an increase in demand from customers who had been impacted by Covid-19. As Alphera explained, the service they were able to provide to customers was impacted due to the national lockdown and I don't find this to be unreasonable. So, while I appreciate it was frustrating that Miss H was kept on hold for long periods of time, I think this was impacted by factors outside of Alphera's control.

Settlement figure

I note Miss H feels the settlement figure she was provided with was incorrect. Miss H says Alphera have overcharged her interest, so she says the settlement amount should be less.

As our Investigator explained, an early settlement figure is based on the total amount payable, less any payments already made. Miss H had a two-month payment deferral due to Covid-19 in October 2020 and again in November 2020. I've looked at the payment history of the agreement and I can see these were taken into account when recalculating Miss H's monthly repayments after the deferral period had ended. It's not clear from the evidence I've been provided that Miss H was given the two different settlement amounts as she's suggested. But nonetheless, I have taken a look at the payment history and there's nothing to suggest Miss H paid more than she should have. Therefore, I think the settlement figure of £10,097.53 Miss H paid in the end to settle the agreement with was correct.

Putting things right

As explained, I don't think Alphera provided Miss H with a clear explanation as to exactly why they needed to see evidence of her medical conditions in order to provide their authority for the car to be released from the impound. And I think the lack of explanation has understandably caused Miss H distress – especially at a time where she was already suffering from mental health conditions. I can appreciate Miss H felt concerned by this request from Alphera, without a true understanding as to why this was needed. For these reasons, I currently think Alphera should pay Miss H £150 compensation.

Alphera didn't respond to my provisional decision. But Miss H did and said she accepted my findings. Miss H also commented that she feels Alphera have delayed things by not agreeing to the recommendation made previously by our Investigator for Alphera to put things right for her.

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 can understand Miss H is frustrated that Alphera didn't agree to our Investigator's opinion. But we do have a two-stage process here at the service, and either party are able to refer the complaint for an Ombudsman's review if they disagree with the Investigator's view – which is what Alphera did here.

Lastly, despite numerous attempts to better understand Alphera's reasoning for requesting evidence of Miss H's disabilities, it's still unclear to me for what reason Alphera were specifically required to have this evidence in order to give their authority for the car to be released from the impound. So, I see no reason to depart from my provisional findings.

Putting things right

For the same reasons as explained in my provisional decision, I require Alphera to pay Miss H £150 compensation.

My final decision

My final decision is that I uphold this complaint in part. And I require BMW Financial Services (GB) Limited trading as Alphera Financial Services to pay Miss H £150 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 31 August 2022.

Leanne McEvoy

Ombudsman