

The complaint

Mr F complains about charges BMW Financial Services (GB) Limited ("BMWFS"), trading as Alphera Financial Services, have asked him to pay on the return of a car he had been leasing through 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.

Having done so, I agree with the conclusions reached by the investigator for these reasons:

Mr F 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 him responsible for keeping the car in good condition. He would be responsible for any damage if the car wasn't returned in the correct condition.

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).

It's that guidance that I think BMWFS should have used when reviewing the damage in the inspection report. But I think they should also have taken into account that this car was already seven years old and had already completed 66,000 miles when it was returned so there would be some areas in which fair wear and tear would be more extensive than, for example, if the car was only a year old when it was returned.

Areas where damage is clearly in excess of fair wear and tear.

LH rear wheel – the BVRLA guidance says there should be no damage to the spokes. On a car of this age and mileage, however, there has been significantly greater opportunity for the wheels to be damaged and I'd expect the business to take that into account and not apply the guidelines so rigorously. However, the photographs show the damage affects more than one spoke and in those circumstances I think the damage is in excess of what could be considered fair wear and tear and a charge is fair.

Cracked tyre. Mr F has accepted this charge and I'd agree that it's fair.

I think the **LH seat base cover** is excessively soiled. The BVRLA guidance says that upholstery should not be stained but I think it's also fair to consider the age of this vehicle. I

don't think a consumer would expect a seven year old car to have had its seats replaced and it therefore follows that a seven year old car's seats will be the original ones and more worn/stained than a younger car's. Having said that I think the staining to this seat is in excess of what a reasonable consumer would expect given its age and I therefore think BMWFS have been fair when charging for its refurbishment.

Areas where damage is not in excess of fair wear and tear.

Rusted bonnet – BMWFS have now accepted that the charge is unreasonable as Mr F has provided evidence the rust was forming when he took receipt of the car. I'd agree.

RH seat base – I think the damage here could be expected on a car of this age and mileage. It affects the driver's seat and is consistent with a driver entering and exiting the car. That has clearly happened more over seven years than it would have happened on a newer vehicle, so I think it's fair to accept that the damage is the result of fair wear and tear and a charge isn't reasonable in those circumstances.

RH carpet – I don't think a reasonable person would expect to have replaced the carpet within seven years so it's reasonable to expect the same carpet to be in this car as was in it when new. A seven year old car will therefore exhibit more wear than a newer one, although that more extensive wear can still fairly be considered normal. As the wear here is under the driver's pedals and the car has been driven over 66,000 miles I think consideration should have been given to that and that a reasonable person would expect some wear in this area. I don't therefore think it's fair for BMWFS to charge Mr F to replace the whole carpet; the charge of over £600 seems excessive and I'd agree with the investigator that a charge of £29 (taken from the charging matrix) is more reasonable in the circumstances.

It's clear that several of the charges BMWFS have sought to make have been unfairly levied and in those circumstances I don't think it was unreasonable for Mr F not to pay the bill until his complaint was resolved. BMWFS should therefore remove any adverse reports they have made to Mr F's credit file in relation to this issue.

Putting things right

BMWFS should waive the charges they've made for refurbishment of the bonnet and RH seat base and they should reduce the charge for the RH carpet to £29. BMWFS should also remove any adverse reports they may have made to Mr F's credit file in relation to the refurbishment bill.

My final decision

For the reasons I've given above I uphold this complaint in part and tell BMW Financial Services (GB) Limited to put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 11 October 2022.

Phillip McMahon
Ombudsman