

## **The complaint**

Mrs N complains that BMW Financial Services (GB) Limited trading as Alpheria Financial Services ("BMWFS") terminated her agreement due to arrears on the account.

## **What happened**

In February 2020 Mrs N was supplied with a car and entered into a hire purchase agreement with BMWFS.

In February 2023 the agreement fell into arrears. BMWFS sent arrears letters, but no payments were received. On 15 June 2023 BMWFS issued a default notice giving Mrs N 20 days to clear the arrears in full. Mrs N didn't clear the arrears and the agreement was terminated on 17 July 2023.

Mrs N complained to BMWFS. She said she appreciated that she'd missed payments due to some difficult circumstances, but she wanted to pay off the arrears and have the agreement reinstated.

BMWFS didn't uphold the complaint. It said it was required to bring the agreement to an end where it was no longer affordable, and said the termination of the agreement would remain and it would look to continue with its recovery process.

Mrs N remained unhappy and brought her complaint to this service.

Our investigator didn't uphold the complaint. They said BMWFS had acted in accordance with the terms of the agreement and defaulted the account after the arrears accumulated to the point where the industry guidance suggested it was acceptable to do so.

Mrs N didn't agree so I've been asked to review the complaint.

Since the investigator issued their view, Mrs N has told this service that she's settled the agreement so she could keep the car. She said she'd still like an ombudsman to make a final decision because she doesn't think BMWFS treated her fairly.

## **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 reviewed the terms and conditions of the agreement. These say that BMWFS can terminate the agreement and recover the car if payments aren't made.

The relevant guidance (Principles for the Reporting of Arrears, Arrangements and Defaults at Credit Reference Agencies) says that a default can be recorded when an account is three months in arrears. In this case, I can see that Mrs N's account fell into arrears in February 2023. By the time BMWFS issued a default notice in June 2023 the arrears were £675.90, which was the equivalent of three monthly payments. Having regard to the guidance I've mentioned above, I'm unable to say that BMWFS made an error by defaulting the account

when it did.

I can see that Mrs N didn't pay the arrears in full in response to the default notice. The default notice made it clear that BMWFS would terminate the agreement and take steps to recover the car if the arrears weren't paid in full. So I'm unable to say that BMWFS made an error when it terminated the account.

Taking everything into account, I'm unable to say that BMWFS did anything wrong when it defaulted and terminated the account. I'm satisfied that BMWFS acted in accordance with the terms of the agreement and the relevant guidance.

I've gone on to consider whether BMWFS treated Mrs N fairly. This service expects a business to treat customers who are experiencing financial difficulties positively and sympathetically. However, there's also an expectation that customers will co-operate with the business.

I can see that BMWFS signposted Mrs N to organisations who could provide debt advice. It also invited Mrs N to contact them to discuss a payment plan for the arrears. I can't see that Mrs N co-operated with BMWFS at all until after the agreement was terminated. So I can't fairly say that BMWFS didn't make attempts to assist Mrs N up until this time.

Mrs N has said that she doesn't feel that she was treated fairly when she contacted BMWFS in July 2023. She says she was advised that she had breached the agreement and that she had no right of appeal and wasn't able to complain. Mrs N has said that she felt very vulnerable at this time and that she hoped that once she'd explained the circumstances which had led to her missing payments, BMWFS would reconsider its decision to terminate the agreement.

I've reviewed what happened from July 2023 onwards. I appreciate that BMWFS didn't respond to Mrs N in the way she had hoped. However, although I can see that some of BMWFS's responses were brief, on balance I don't think BMWFS treated Mrs N unfairly.

I understand that since referring her complaint to this service Mrs N has settled the agreement. I'm pleased to hear that she's been able to find a way to keep the car.

For the reasons I've explained above, I'm unable to uphold the complaint.

### **My final decision**

My final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs N to accept or reject my decision before 19 February 2024.

Emma Davy  
**Ombudsman**