

The complaint

Mr B complains BMW Financial Services(GB) Limited (BMWFS) supplied him with a car that he believes wasn't of satisfactory quality.

Mr B is represented by his wife but for the purposes of this decision, I will refer to Mr B only as he's the agreement holder.

What happened

In February 2021, Mr B entered into a 48 month hire purchase agreement for a used car. The car's cash price was around £20,900. It was over four years old and it had travelled around 15,300 miles. Mr B paid a deposit of £3,000. He was required to pay monthly instalments of £294 with a final optional payment of £8,557.

Shortly after acquiring the car, Mr B complained the tyres were heavily cracked and the leather seats were discoloured. In April 2021, the dealership said as a gesture of goodwill, they would replace the tyres (once sourced) and valet the car. However according to them, before this could happen Mr B replaced all four tyres at a cost of around £400. Mr B said this was necessary as one of them 'blew out' within a couple of months after acquiring the car. He believes he should be compensated for the same. Mr B also later complained there was a fault with the satellite navigation system (sat nav) and the roof retraction.

Without any further action by the dealership despite his continuous communication attempts, he complained to BMWFS in August 2022. In their final response, they only addressed the issue with the sat nav and roof retraction. They said although the car has been looked at by a third party, no fault had been found and the operation of the car or its safety hadn't been hindered.

Unhappy with their response, the complaint was referred to our service. Our investigator recommended the complaint wasn't upheld. He said there was insufficient evidence the issues with the tyres, sat nav and roof retraction were present at supply. Concerning the leather seats, although he accepted they were worn, he believed this was due to general wear and tear given the car's age and mileage. Overall, he concluded the car was of satisfactory quality at supply.

Mr B disagreed and maintained his stance. He further commented the leather seats had been made to look better than what it actually was up on delivery and had he known the real condition of them, he wouldn't have bought the car.

As an agreement couldn't be reached, the complaint has been referred 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.

Having done so, I've decided not to uphold Mr B's complaint. I will explain why.

Mr B acquired a car under a regulated credit agreement. BMWFS was the supplier of the goods under this type of agreement meaning they are responsible for a complaint about the supply and the quality of the car.

The Consumer Rights Act 2015 (CRA) is relevant to this complaint. It says that, under a contract to supply goods, there is an implied term that "the quality of the goods is satisfactory". To be considered "satisfactory", the goods would need to meet the standard that a reasonable person would consider satisfactory – taking into account any description of the goods, the price and all the other relevant circumstances. In a case involving a car, the other relevant circumstances a court would take into account might include things like the age and mileage. The quality of goods includes other things like fitness for purpose, appearance, freedom from minor defects, safety and durability.

In this case, Mr B was supplied with a used car that was over four years old and covered over 15,300 miles. For used cars, it's reasonable to expect parts may already have suffered notable wear and tear and may need repair and/or maintenance sooner than a car which wasn't as road-worn when it was supplied.

The tyres

Mr B complains upon collecting the car, the tyres were severely cracked and he raised this to the dealership. He also says within a couple of months, one of them 'blew out' and he replaced all four of them. Like the investigator, I find there is insufficient evidence about the tyres, the condition it was in at supply and the reason why one of them was so heavily damaged to the point it needed replacing.

Based on the emails I've seen, I note the car would've been subject to pre-sale checks prior to Mr B collecting it. I haven't seen evidence of such checks but I have seen the MOT history of the car and it passed shortly before it was supplied to Mr B, without any advisories. So I find it's fair to say the tyres were of roadworthy condition.

I also need to take into account the car's age and mileage. As outlined above, I find it's reasonable to expect parts of the car (like the tyres) would show signs of significant wear. Tyres are considered a serviceable component of a car meaning maintenance, repair or replacement is to be expected as its heavily impacted by use of the car.

Based on the emails I've seen, I accept the dealership agreed to replace the tyres following Mr B's complaint. However they confirmed that was a gesture of goodwill meaning it wasn't an admission of liability for a fault with the tyres. For the reasons outlined above, I don't find the dealership was compelled to do this, it would appear they wanted to resolve matters for Mr B. If the tyres were replaced by him before this could happen, I can't fairly hold BMWFS nor the dealership responsible for this.

The leather seats

Mr B complained the leather seats are in an unsatisfactory condition as they are discoloured and they have marks. He has provided photos of the same and also findings from a third party garage which says there are stains to the seats and despite cleaning them, marks remain. It goes on to say a specialist leather repair is likely to be needed.

Based on the above evidence, it's clear there is an issue with the seats. However although I accept that to be the case, that doesn't necessarily mean the car wasn't of satisfactory

quality at the point it was supplied. I'm sorry to hear Mr B is unhappy with the condition of the seats but I must bear in mind this is a used car, not a new one. So it's reasonable to expect parts of it (such as the seats) to show significant signs of wear which I find to be the case here.

The sat nav and roof retraction systems

Mr B complains the sat nav and roof retraction systems aren't working. He has provided little detail about this so there is insufficient evidence to demonstrate the issues he's complaining about. In the absence of such evidence, I can't reasonably say there is a fault, that fault was present at supply nor that it meant the car wasn't of satisfactory quality. However based on BMWFS' contact notes, I can see there is a suggestion Mr B confirmed these issues were resolved some time in October 2022 and the only outstanding issues were the tyres and seats.

Lastly, I'm sorry to hear about Mr B's complaint about the level of customer service by the supplying dealership and BMWFS. It's clear he feels very strongly about the issues and given the extent of the back and forth communication and the length of time this has been going on, I can appreciate his frustration. However for the reasons outlined above, I don't find BMWFS needs to take any further action.

Summary

Taking everything into account, there is insufficient evidence the above faults were present or developing at supply which would mean the car wasn't of satisfactory quality. Overall I find the car was. Therefore I won't be asking BMWFS to do anything to resolve this complaint.

My final decision

For the reasons set out above, I've decided not to uphold Mr B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 18 December 2023.

Simona Reese
Ombudsman