

## **The complaint**

Mr B complains that BMW Financial Services (GB) Limited reneged on an agreement not to default his account.

## **What happened**

Mr B had a regulated hire purchase agreement with BMW which was in arrears. That agreement pertained to a new car. Later on, Mr B had a court case with BMW about the emissions from some other cars. But that court case was not about this agreement.

From May 2019, Mr B began missing payments, and by August 2020 his arrears exceeded £10,000. In June 2022 he asked BMW to put the recovery of his arrears on hold until the outcome of the court case was known, and BMW agreed to do that.<sup>1</sup> But later, in December 2022, BMW changed its mind and told him it was going to default his account anyway. It served him a default notice in January 2023. Then in March, BMW terminated his agreement.

Mr B complained about that decision, but BMW told him that as the arrears at the time had been £31,680, and Mr B had made no payments since May 2022, it had decided to default his account after all.

Mr B then raised this complaint with our service, but our investigator did not uphold it. She said that although BMW had agreed not to default the account, it had still been justified in doing so, because of the extent of the arrears. She said it would not have been reasonable if BMW had allowed the arrears to continue to grow without Mr B making any payments to reduce them. She also pointed out that BMW had a duty to report an accurate account history to the credit reference agencies. And since it had not been known when the court case would conclude, BMW could not really be expected to keep arrears recovery action on hold indefinitely.

Mr B asked for an ombudsman to review his case.

## **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 do not uphold this complaint. The agreement that Mr B had with BMW was just that no action would be taken to recover his arrears while the litigation was ongoing. There was no agreement that Mr B could stop making his contractual monthly payments. That meant that the arrears were increasing every month. So I think it was reasonable of BMW to default the account and terminate the agreement.

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<sup>1</sup> In its final response letter, BMW denied that it had ever given Mr B any such assurance. But before then it had admitted in an email (dated 27 January 2023) that it had.

**My final decision**

So my decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 8 May 2024. But apart from that, this final decision brings our service's involvement in this matter to an end.

Richard Wood  
**Ombudsman**