

The complaint

Ms K is unhappy that BMW Financial Services (GB) Limited trading as MINI Financial Services declined her application for a regulated car finance agreement, that they didn't give her an expanded and detailed reason for their decision, and about the service they provided after the application was declined.

What happened

On 27 March 2023, Ms K attempted to obtain a car through a regulated credit agreement. She made this application through a credit broker, who put the application to BMW. As part of their application process, BMW checked Ms K's income and expenditure through open banking. This check indicated the proposed monthly payments weren't affordable for Ms K. So, BMW declined her application.

Ms K initially appealed this decision, again through the credit broker. However, after reviewing the appeal, BMW maintained their decision to decline the application. As a result, Ms K obtained a fixed sum loan agreement with another lender to enable her to purchase the car she wanted.

Ms K wasn't happy about what had happened, and she complained to BMW. In an email dated 12 April 2024 BMW explained *"your application was assessed using a Credit Scoring process and our own internal policies ... the main reason we have turned down your application is due to your bank statements being deemed unsupportive."* BMW went on to explain that they were unable to reconsider her application, and they provided details of the credit reference agencies they had used as part of their application process.

Ms K wasn't happy with this response, and asked BMW to provide more information as to why her application was declined. She says she tried to speak to BMW about this, but they didn't deal with her request, disconnecting calls, and taking complaints then ignoring them.

BMW responded to Ms K's complaint on 27 April 2023, acknowledging they'd had multiple calls with Ms K, but saying they only had one call recorded. They said that this call had been disconnected by the call handler due to a poor line and system issues, and this was addressed with the call handler by their manager after the call had taken place. As such, they didn't think they needed to do anything more.

Unhappy with this response, Ms K brought her complaint to the Financial Ombudsman Service for investigation.

Our investigator said that BMW had explained their reason for declining Ms K's application in their email of 12 April 2023. The investigator also explained that a financial business has the right to decide who they lend to, and we can't tell them to offer someone finance.

The investigator also explained that, although Ms K had provided evidence of the calls she'd made to BMW, BMW don't have copies of these calls. As such, the investigator was unable to say with any certainty what was said on these calls, so was unable to recommend any compensation award.

Finally, the investigator explained that we were unable to consider Ms K's complaint about how she was dealt with by the credit broker, as they are a separate business to BMW. And, if Ms K wants this to be considered, she would need to complain to the credit broker in the first instance.

Ms K didn't agree with the investigator. She said that her complaint had not been addressed, but instead issues that set the context of her complaint were being taken as the complaint itself. She also felt she was being denied justice as BMW, who "*record all calls*" were unable to provide the calls the investigator accepted took place.

Ms K confirmed that she would "*re-iterate my complaint, thought [sic] I will need more time to provide the information, already provided several times.*" However, Ms K didn't initially provide any further information, as no deadline was agreed for her to do so. Which she considered to be "*an abuse of the decision making power*" by the investigator.

In an email dated 31 January 2024, Ms K confirmed that she was unhappy about the customer service provided by BMW following her refused application "*is and remains my only complaint.*" She also said that, although BMW had advised her that they only had a copy of one of her calls – the call of 28 March 2023 – we'd been told that no calls were available, which she thought was a contradiction. And she thought she was being penalised as BMW were not providing calls they should be able to.

In this email she also raised various comments about how our investigator had dealt with her complaint and referred to other published case studies and decisions made by the Financial Ombudsman Service, for other customers and against other financial businesses, where she considers the circumstances to be the same or very similar.

Because Ms K didn't agree, this matter has been passed to me to make a final 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've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome. Where evidence has been incomplete or contradictory, I've reached my view on the balance of probabilities – what I think is most likely to have happened given the available evidence and wider circumstances.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. In making an application for a regulated financial agreement, Ms K was a prospective customer of BMW. This means we can investigate her complaint about the service she received.

Before I explain why I've reached my decision, I think it's extremely important for me to set out exactly what I've been able to consider here. Ms K has commented extensively on how the investigator dealt with her complaint. While I recognise these to be genuine concerns, these comments don't relate to the service she received from BMW. And I've seen these comments are being dealt with through our service complaint process. As such, I will not address them within my decision.

What's more, while I recognise Ms K has made reference to other decisions the Financial Ombudsman Service has made, a crucial part of our service and the way we consider complaints is that we consider each complaint on its own merits and its own individual circumstances. So, my decision won't be impacted in any way by any decision made on a different complaint, no matter how similar Ms K feels the situation is.

As confirmed in her email of 31 January 2024, Ms K's sole complaint is how she was treated by BMW after her application was refused. She has referred to this service being provided over several phone calls, which for clarity are:

- 28 March 2023 – Ms K says the agent was rude and hung up the call. In their final complaint response letter, BMW have confirmed this was the case, and have taken action against the call handler.
- 30 March 2023 – Ms K says the agent failed to provide details of the finance company to enable her to make a complaint.
- 11 April 2023 – Ms K says the first call agent hung up on her, and the second call agent transferred the call to customer services. This was a 'blind transfer' and the customer services representative explained they were unable to help but escalated the call. Ms K didn't think this was fair, as the service she received shouldn't be down to speaking to someone who had a point of escalation.
- 2 May 2023 – the escalation contact agreed that the final response letter was inadequate.

Ms K has provided evidence she made these calls, as well as calls on 29 March, 12 April, and 27 April 2023. I would like to thank her for the clarity and information she's provided. However, when considering this matter, I also need to consider that complaint handling is an unregulated activity. As such, how BMW dealt with Ms K's complaint falls outside of my jurisdiction to consider.

Based on the information Ms K has provided, I'm satisfied that the call on 11 April 2023 related to Ms K's complaint about BMW's service, as did the call of 2 May 2023. What's more, I also consider it more likely than not that any calls after 11 April 2023 also related to Ms K's complaint about the service she'd received from BMW. As such, and while I'm sure this will come as a disappointment to Ms K, these calls aren't something I'm able to consider.

Turning to the call of 30 March 2023, Ms K has confirmed the purpose of this call was for her to raise a complaint with BMW about the service she'd received. As such, it's arguable that this call is also something I'm unable to consider, as it relates to complaint handling. However, even if I'm wrong about this, I'm looking for a fair and reasonable service, not a perfect service. So, while BMW should've given Ms K the details she needed to be able to raise a complaint in this call, she was still able to do this. As such, I wouldn't be looking to award Ms K any specific compensation for this call.

Finally, what happened on the call of 28 March 2023 isn't disputed. As such, I'm satisfied I'm able to reach a decision without having to listen to this call. BMW acknowledge the call was disconnected when it shouldn't have been, and they've already taken action to address this situation. Ms K was able to raise the points she wanted to on this call, presumably on the call of 29 March 2023, for which Ms K hasn't raised any service issues. Given this, I also wouldn't be looking to award Ms K any specific compensation for this call.

In conclusion, and while I appreciate this will also come as a disappointment to Ms K, I'm satisfied that, in the calls I am able to consider, BMW didn't act so unreasonably that I'll be directing them to provide any additional compensation.

My final decision

For the reasons explained, I don't uphold Ms K's complaint about BMW Financial Services (GB) Limited trading as MINI Financial Services.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms K to accept or reject my decision before 2 April 2024.

Andrew Burford
Ombudsman