

The complaint

Mr T complains about a car that he financed using a hire purchase agreement with BMW Financial Services (GB) Limited ("BMWFS"). He says non-approved manufacturer parts were fitted.

What happened

In February 2020, Mr T entered into a four-year hire purchase agreement with BMWFS for a used car. The cash price was just over £21,000 and the car was seven years old with just over 32,000 miles on the clock.

The car's steering rack needed a complete replacement in 2023 when the car had travelled around 56,000 miles. Mr T says that, while this was being repaired, the garage told him that the front splitter and rear lip were after-market parts. Mr T also says that the front splitter disintegrated a short time after while he was driving. He says this had been attached with a combination of rusty nails, tape and blocks of wood.

Mr T complained to BMWFS. He said that he expected a BMW approved car such as this to be as advertised, which was that it would have been 'meticulously inspected' and came with 100% genuine BMW approved parts. Mr T said to BMWFS that the car came with neither of those things and so it had been misrepresented to him. He asked for all damage to the car caused by these parts to be rectified and for the steering rack repair costs to be refunded.

BMWFS didn't uphold the complaint. They said, in summary, that they held no legal obligation to provide 100% genuine BMW approved parts. Mr T didn't agree and referred his complaint to our service. One of our investigators looked at what happened but didn't recommend that BMWFS do anything.

Mr T asked for his complaint to be referred for an ombudsman's 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.

Where the evidence is incomplete, inconclusive or contradictory, I reach my conclusions on the balance of probabilities – that is, what I think is more likely than not to have happened based on the available evidence and the wider surrounding circumstances.

Mr T used a regulated hire purchase agreement with BMWFS to acquire the car that is the subject of this complaint. Our service can consider complaints relating to these sorts of agreements.

When considering what's fair and reasonable, I take into account relevant law. The Consumer Rights Act 2015 (CRA) is relevant to this complaint. This says that when Mr T got the car, the supplier (here, BMWFS) had a responsibility to make sure it was of 'satisfactory quality'. Satisfactory quality is what a 'reasonable person' would expect – taking into account

things like the car's age, price, mileage, description and other relevant factors.

Mr T has made a couple of points. The first is that the front splitter was poorly applied which caused it to break apart. And the other is that the car wasn't as described, in that the front splitter and rear lip weren't 100% genuine BMW approved parts, as advertised.

I note that our investigator said that he couldn't be sure that these parts were present on the car when it was supplied to Mr T. BMWFS hasn't though made the argument that these were retrofitted, so on balance it seems that these parts were likely present on the car when Mr T acquired it and that these weren't BMW approved parts (as BMWFS hasn't said they were).

I think it reasonable to assume that Mr T thought that all the parts of the car were BMW parts, and the dealership should have told him that certain parts weren't. However, I can't be sure that Mr T wouldn't have gone ahead and acquired the car had he realised, or rather had he been told, that these parts weren't genuine parts. I've not seen clear evidence for example that Mr T complained about this until the front splitter detached itself from the car, which was after he'd been given information about this part by the garage who had repaired his car.

The other relevant point to consider here is whether the condition of the front splitter and/or rear lip rendered the car as being of unsatisfactory quality. I've looked at the photographs of the damage to the front splitter as provided by Mr T, but I don't think these are enough to show me that this part wasn't fit for purpose or was of poor quality. Mr T was able to drive the car for nearly four years until the part broke away. That isn't an insignificant period of time, and I would have needed more evidence that this occurred because it was either poorly applied or poorly put together. I think had either of those things been the case, it's more likely than not that this would have detached itself a lot sooner than it did.

Having considered the matter, I'm not persuaded that the car was of unsatisfactory quality when it was supplied to Mr T. I note that Mr T has mentioned repairs to the steering rack. This doesn't appear to have been considered by BMWFS and it's unclear to me why that is. I note though that our investigator mentioned that he hadn't seen any evidence relating to an issue with the steering rack and this point wasn't contested by Mr T in his response to the view. So, I haven't considered this as part of this complaint.

In addition to my findings on the quality of the car, I've haven't been persuaded that the dealership misrepresented aspects of the car that would have made a material difference to Mr T's decision to acquire it and finance this through the hire purchase agreement with BMWFS.

My final decision

For the reasons set above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 3 January 2025.

Daniel Picken
Ombudsman