

The complaint

Mr J is unhappy that BMW Financial Services(GB) Limited (BMWFS) terminated the hire purchase agreement he had with them.

What happened

In November 2021 Mr J was supplied with a new car through a hire purchase agreement with BMWFS. He paid an advance payment of £3,589 and the agreement was for £31,023 over four years: with 47 monthly payments of £336.72 and an optional final repayment of £11,608.

Mr J complains that BMWFS terminated his hire purchase agreement when he had only missed one payment.

He said he didn't receive any communications from BMWFS. He said the email address and telephone number they had on file were out of date. He said they should have known his email and telephone number because he received regular communications from the dealer who supplied the car.

He said that he received no warnings or notifications from BMWFS before they terminated his agreement. He accepted that he had missed one payment in July 2022 but said he had made all other payments on time.

He said that terminating the agreement was unfair and unjust. He wanted the agreement to be reinstated and the default removed from his credit file.

BMWFS said they had contacted Mr J on numerous occasions by letter, telephone and email since he missed the payment that was due in July 2022. They said Mr J had nearly two years to clear the arrears. They said they issued a default notice and terminated the agreement in April 2024 when the arrears weren't cleared.

They said they had terminated the agreement correctly and would not look to reinstate the agreement.

Mr J was unhappy with this response, so he referred his complaint to our service for investigation.

Our investigator said that Mr J had failed to provide BMWFS with his new email address and telephone number. She said BMWFS had made considerable effort to contact him by various means and had issued the relevant regulatory notices before terminating the agreement. She said she couldn't ask BMWFS to reinstate the agreement or remove the defaults from Mr J's credit file as they hadn't done anything wrong.

Mr J didn't agree with the investigator. He said he would've expected the supplying dealer to notify BMWFS of his new contact details. If the dealer had done this then he said he would've received the emails and phone calls from BMWFS. He said the decision to terminate the agreement because of one missed payment was disproportionate.

Because Mr J 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. Mr J was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we are able to investigate complaints about it.

It's not disputed that Mr J only missed one payment, from July 2022. And Mr J acknowledges that he did not tell BMWFS he had changed his email address and telephone number. The issue I have to consider is whether or not it was fair and reasonable for BMWFS to terminate the agreement after one missed payment.

I have sympathy with Mr J's view that to terminate an agreement after one missed payment may be disproportionate. But I have to consider the full picture.

The agreement is with BMWFS. This is stated on the agreement he signed when he entered into it. The dealer is named as a "*credit intermediary*". So I'm satisfied that it was reasonably clear that the agreement was with a separate legal entity – BMW Financial Services (GB) Limited. I haven't seen anything to show that the supplying dealer had suggested to Mr J it would notify BMWFS of changes to his personal information.

I can see that BMWFS not only contacted Mr J by telephone and email but also by letter. They sent him several arrears letters, starting with three letters sent in July 2022, then a letter every month to January 2023, and from April 2023 to March 2024.

These letters told him what he needed to do to clear the arrears, that missed payments would be reported to credit reference agencies, and that the car linked to the agreement would be at risk if the arrears weren't cleared.

BMWFS also sent a default notice to Mr J at his home address in February 2023. This informed him that BMWFS would terminate the agreement if he did not pay the arrears. They sent him another default notice, again to his home address, on 8 March 2024. Again, this informed him that:

"If you do not pay the arrears set out in the Default Notice in full before the date shown, we will:

- 1) terminate the Agreement and take further steps to recover the amount due which may include repossessing the Vehicle. Any costs incurred by us in doing so may be added to the amount already owed, and*
- 2) record a Default on your credit file with Credit Reference Agencies after 28 days from the date of this letter, which may affect your ability to obtain credit and other financial facilities from us and other organisations for up to 6 years."*

And when he didn't respond they sent another letter to his home address in April 2024, informing him that they were now terminating the agreement.

Mr J said that the only letter he received was the notice informing him that BMWFS were terminating the agreement. I've seen a copy of this letter. It was sent to the same address that all the previous correspondence was sent to. And it is the same address that Mr J provided to this service on his complaint form. So I'm satisfied that it's more likely than not that the letters would have been delivered to Mr J at his home address.

As I'm satisfied that they sent him the relevant correspondence to his home address, and because he didn't respond, I think it was fair and reasonable that in these circumstances they went ahead and terminated the agreement.

I'm satisfied that BMWFS provided Mr J with relevant information about the arrears on the account, the need to clear the arrears, and the consequences of failing to do so. He hasn't said why he only contacted them after they terminated the agreement. But as I said above, I'm satisfied it was fair and reasonable for them to do so – they had made all reasonable efforts to contact him, and when, after two years he had failed to do so, it was reasonable that they took the action they did. I'm satisfied they gave him fair notice of their intention to do so.

I know this will disappoint Mr J, but I can't say BMWFS have done anything wrong, so I won't be asking them to take any action.

My final decision

For the reasons explained, I don't uphold Mr J's complaint about BMW Financial Services (GB) Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 11 December 2024.

Gordon Ramsay
Ombudsman