

## **The complaint**

Miss W complains that BMW Financial Services(GB) Limited trading as Alphera Financial Services (“Alphera”) are incorrectly chasing her for an outstanding balance on an agreement she thought she had settled with them.

## **What happened**

In March 2022, Miss W acquired a used car using a hire purchase agreement with Alphera. The cash price listed on the agreement was £24,221, the advance payment made was £2,318, the duration of the agreement was 49 months, which involved making 48 regular monthly repayments of £303.76, followed by an optional final repayment of £13,587. The agreement recorded the car’s mileage at the point of supply as 26,587 miles, and the annual permitted mileage under the agreement was 7,000 miles (the maximum total mileage was 55,170).

Miss W was involved in a road traffic accident towards the end of November 2023, which she said wasn’t her fault, causing her car to be written off by her insurance provider. Miss W said she requested a final settlement figure from Alphera on 30 November 2023 and was given the figure of £19,051.49.

On 19 December 2023, Miss W made a further regular monthly repayment towards her agreement.

Miss W said she contacted Alphera again on 21 December 2023 for an updated settlement figure once her insurance provider was ready to pay out. She was told the previous settlement figure was still valid.

Miss W’s insurance provider paid a total of £18,750 on 27 December 2023 and this payment reached Alphera on 1 January 2024, at which point Miss W believed her settlement figure should have decreased to £18,581.43 as she had made a further monthly payment on the agreement on 19 December 2023.

Miss W said she then received a letter from Alphera dated 3 January 2024 saying that she still owed £135.19 to settle her agreement with them, which surprised her, as she thought they should owe her £168.57.

Miss W said she queried with Alphera why she still had an outstanding balance to pay, and over the next few days and weeks, Miss W said she received conflicting information from them. Miss W said she requested a breakdown of her payment history and asked Alphera to clarify why there was still an outstanding balance, as she believed it was a mistake by Alphera.

Miss W said she was in the process of applying for a mortgage and there was a marker placed on her credit file. She also said she received several threatening arrears letters from Alphera requesting payment be made.

As Miss W felt she had exhausted Alphera's complaint process, she referred her complaint to our service. Miss W said this complaint with Alphera had severely impacted her mental health and she was undergoing therapy at the time.

Alphera issued their final response to Miss W in March 2024. They didn't uphold her complaint and in summary, they explained that the settlement quote that had been generated for her was valid until 28 December 2023. And they only received the standing order payment to settle the agreement on 1 January 2024, and by then the settlement quote had expired. They went on to explain that a new settlement figure needed to be generated to settle the agreement as there was a difference in interest.

Our investigator didn't uphold the complaint. He said that he listened to a call recording of a call between Miss W and Alphera on 5 January 2024. Having listened to the call, he said he found Alphera to have clearly explained that the previous settlement quote had expired by the time payment was made and that the interest rebate due back had reduced. So he didn't think Alphera needed to do anything further.

Miss W disagreed with the investigator's findings. Among other things, Miss W explained she asked for a written explanation of the reason there was an outstanding balance.

Miss W said she continued to receive arrears letters and calls about the outstanding balance owed.

Our investigator issued their further view on the complaint, where he explained he listened to further calls between Miss W and Alphera, and considered communication sent by Alphera after they said there was still an outstanding balance owed. The investigator upheld the complaint and said Alphera should pay £250 to Miss W due to the distress and inconvenience caused. He said he reached this conclusion as he could see Miss W was given conflicting information and not provided information she requested in writing within a reasonable time.

Miss W disagreed with the investigator's further findings and believed, among other things, the outstanding balance should be written off, along with her credit file updated to remove any adverse information recorded by Alphera.

Alphera said that they accepted the investigator's updated findings. As Miss W disagreed, the complaint was passed 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'm upholding this complaint and I've reached the same conclusion as the investigator. I'll explain why below.

If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is a fair outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as an alternative to the courts.

Miss W complains about a settlement figure she was given in relation to a hire purchase agreement. Entering into consumer credit contracts such as this is a regulated activity, so I'm satisfied I can consider Miss W's complaint about Alphera.

The Consumer Credit Act 1974 ("CCA") covers several areas of consumer credit including the content and form of credit agreements and the procedures relating to early settlement. The CCA says that settlement figures should be calculated using rules set out in the Consumer Credit (Early Settlement) Regulations 2004 ("CCR").

The settlement figure is the amount a borrower needs to pay to clear a loan balance. It's based on the total amount payable, less any payments a borrower has already paid. The remaining sum may then be reduced by a 'rebate' of the remaining interest, to give a final settlement figure.

If a borrower intends to repay all of a loan early, they may not have to pay the interest they would need to pay in the future if the loan ran for its full term. This saving is called a rebate. If a rebate is due, the lender will apply a mathematical formula which is set out in the CCR to work out what the rebate should be. The formula works out how much of the amount borrowed is left to be repaid and how much of the future interest and charges will no longer need to be paid. It's worth noting that this applies only if the loan is settled by the settlement date i.e. by the deadline given for repayment to be made when an early settlement quote is requested.

In order for me to consider whether Alphera needs to do something to put things right, I first need to think about whether it was fair they requested further money from Miss W, when she thought she had paid the correct amount to settle the agreement early.

#### Did Alphera act fairly in asking Miss W for further sums to settle the agreement?

In this instance, Miss W requested a settlement quote on 30 November 2023. This quote was valid until 28 December 2023. Alphera received funds from a third-party on behalf of Miss W, after 28 December 2023, so Alphera say the settlement quote they originally generated for Miss W was no longer valid. On the other hand, Miss W says she made a regular monthly payment on 19 December 2023, which she thinks wasn't taken into consideration.

It isn't in dispute that Alphera received the funds after the initial settlement quote had expired. So, considering the above and how an early settlement quote is calculated, using the formula and rules set out in the CCR, I don't think it is unreasonable to conclude that the settlement figure will have changed if the balance was attempted to be repaid after the settlement date deadline had expired.

Miss W believes Alphera owe her money of around £168.57 due to a monthly payment she made in December 2023, rather than her owing them £135.19. I have no reason to think that the settlement calculation carried out by Alphera is incorrect. I think it is fair to suggest that this fairly complex calculation will be automated and audited to ensure its accuracy.

It's worth noting that, at the point the settlement quotation was provided, Miss W was under two years into a 49 month agreement with Alphera. Commonly, loans are based on an 'amortisation' schedule. What this means is that each monthly instalment is made up of some of the amount originally borrowed – the capital; and some of the interest and charges. While loan repayments may be for a fixed amount, in the early stages of a loan term, more of each monthly statement goes on paying the interest – because it's calculated based on the outstanding balance. And, understandably, the outstanding balance will be higher at the start. As the loan term progresses, and the remaining balance reduces, more of the payments being made goes towards paying off the capital element of that balance.

So, while Miss W believes her settlement amount should have reduced by the same amount she paid of her monthly instalment, it isn't as straight forward as that. So, from what I have

seen, I'm satisfied Alphera have applied the correct legislation and I'm satisfied they acted fairly and reasonably in requesting further sums from Miss W in order to settle the agreement she held with them.

Did Alphera do enough to explain to Miss W why there still was an outstanding balance owed?

Miss W believes Alphera didn't clearly explain to her why there was still an outstanding balance owed on her agreement. Miss W explained she emailed Alphera on occasions, and also called them to query the amount they said she still owed.

I have seen copies of email conversations between Miss W and Alphera. I have also listened to calls between Miss W and Alphera where the outstanding balance owed was discussed.

I do accept Miss W was told conflicting information here. On one occasion, Miss W was told Alphera do not hold financial interest in the car acquired under the agreement, only to be told a day or so later that they still do hold a financial interest as £135.19 was due. I have also noted a call recording where an Alphera representative told Miss W she was confused and surprised why there was still an outstanding balance. So, I can see why Miss W wanted clarification on whether a payment was required and the amount outstanding.

Miss W on a call with Alphera asked if she could have an explanation in writing, which I don't think is unreasonable, given what she was told. And while an explanation was given in her final response from Alphera, I don't think this arrived within a reasonable time.

Miss W has also provided a detailed testimony as to how the confusion and misinformation Alphera provided had impacted her mental health. So, I'm satisfied Alphera needs to do something here to put things right.

I'm mindful of the impact this issue has caused Miss W. And I'm also mindful that, although I think Alphera should have done better in communicating why an outstanding balance is still owed, it doesn't mean Miss W should be absolved of her responsibilities of repaying what is owed under the agreement. Afterall, as I explained above, I'm satisfied that Alphera acted fairly and reasonably in requesting further sums owed under the agreement to settle it early.

Considering everything above, I think Alphera should pay Miss W £250 for the distress and inconvenience caused of not explaining clearly to her as to why she still owed an outstanding balance.

Miss W also wanted her credit file updated and any adverse information relating to this complaint removed. It's important that credit files are an accurate record of a person's financial history and up to date. It's one of the things lenders take into account when making decisions about when to lend money to someone, or whether to continue to lend to them. Credit reference agencies only store the information, and lenders and other account providers, like Alphera, tell credit reference agencies what to record. I'm satisfied the outstanding balance wasn't paid in line with the arrears letters Miss W received from Alphera. So, I don't think adverse information has been recorded on Miss W's credit file incorrectly.

**My final decision**

For the reasons I've explained, I uphold this complaint and I instruct BMW Financial Services(GB) Limited trading as Alphera Financial Services to pay Miss W £250 to reflect the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 7 March 2025.

Ronesh Amin  
**Ombudsman**