

## **The complaint**

Ms L complains about BMW Financial Services(GB) Limited (“BMWFS”) and how she believes they didn’t treat her fairly when she didn’t meet her final payment under a hire purchase agreement. Ms L also complains that a refinancing agreement wasn’t put in place. And Ms L complains about the service she received from BMWFS.

## **What happened**

In July 2018, Ms L acquired a used car using a hire purchase agreement with BMWFS. The agreement was taken over 49 months, with regular monthly repayments to be made and an optional final repayment of £11,584.09, if Ms L wished to purchase the car at the end of the agreement.

The agreement was due to end in August 2022, and Ms L was looking to refinance the outstanding optional final repayment. By this point, Ms L was in an Individual Voluntary Arrangement (“IVA”).

In May 2022, Ms L contacted BMWFS to discuss the option of refinancing the final payment. BMWFS shortly afterwards emailed Ms L and asked her to provide details of her IVA.

Call notes from July 2022 explain that Ms L was told again that they were waiting for her IVA documents.

In August 2022, around two weeks before the agreement was expected to end, BMWFS sent Ms L an email. It explained that if she had already sent in her paperwork, then she didn’t need to do anything further. But if her refinance hadn’t completed before her agreement ended, then they will have assumed she wanted to keep the car and therefore the final payment that was owed would need to have been paid in full before the agreement ended.

BMWFS said that Ms L didn’t supply the necessary information they required. Once her agreement reached its term, Ms L was in arrears as the final payment hadn’t been paid.

In August and December 2022, BMWFS sent Ms L arrears letters.

BMWFS also issued their final response to Ms L in December 2022, as she had complained to them. They explained that the decision to accept the refinancing agreement was based on numerous factors which was in line with regulations. They also said they couldn’t investigate any further the customer service issues Ms L said she experienced as they needed further details about the call Ms L was referring to.

In January 2023, BMWFS sent Ms L a Default Notice, explaining that she had until 25 January 2023 to clear her arrears or else a default would be recorded on her credit file and that they would also look to terminate the agreement and repossess the car.

Towards the end of January 2023, once the deadline in the Default Notice had passed, BMWFS informed Ms L that the agreement had ended as they hadn't received the funds required to clear her arrears.

Unhappy with BMWFS's response and their actions, Ms L referred her complaint to our service in May 2023. Ms L believed the refinancing agreement had been accepted during a call in July 2022 and repayments towards it were to commence in September 2022.

Our investigator didn't uphold Ms L's complaint. In summary, the investigator found that BMWFS were clear in their communication to Ms L about what they expected from her, and gave sufficient time for Ms L to provide what they needed before the agreement had come to an end. The investigator also explained that she didn't think BMWFS acted wrongfully in declining Ms L's refinancing application. The investigator went on to say that, on balance, she didn't think BMWFS gave poor service to Ms L.

Ms L disagreed with the investigator and, among other things, said that the IVA documents which were requested were sent to BMWFS in July 2022, but she could no longer show proof of them being sent.

As Ms L disagreed with the investigator's outcome, 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 not upholding this complaint and I'll explain why below.

I'm aware I have summarised events and comments made by both parties very briefly, in less detail than has been provided, largely in my own words. No discourtesy is intended by this. In addition, 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.

Ms L had discussions with BMWFS by telephone. Unfortunately, there aren't any call recordings available. While I understand Ms L's frustration about this, I can reach a fair decision based on the evidence that is available. I should explain that where evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

Ms L complains about a car supplied under a hire purchase agreement. Entering into consumer credit contracts such as this is a regulated activity, so I'm satisfied I can consider Ms L's complaint about BMWFS.

Ultimately, what I need to consider here is whether it was fair and reasonable for BMWFS to decline to refinance the final repayment due. In order to reach a decision on this, I will need to consider the actions of both parties during the time Ms L wished to refinance the final payment.

The events leading up to the hire purchase agreement ending and BMWFS declining Ms L's refinancing application

From BMWFS's contact notes, I can see a copy of an email that was sent to Ms L in May 2022. It says:

*"Following on from your refinance application the Underwriters have requested the full details of your IVA document.*

*If you could please email me a copy to the following email address..."*

I have inferred from the above that BMWFS needed Ms L's IVA document to consider proceeding with the refinancing request she had made.

I have also seen call notes BMWFS supplied that show Ms L called them in July 2022 to discuss the refinancing of the final payment. BMWFS explained that they were still waiting for details about Ms L's IVA. Ms L was also sent a refinance reminder email in August 2022.

I can't see that the IVA document BMWFS required was provided to them before the hire purchase agreement came to an end. While Ms L says that the document was provided in July 2022, no evidence to support this has been provided.

So, while Ms L says that she believed a refinancing agreement was approved in July 2022 and for repayments to commence in September 2022, the evidence I have seen suggests otherwise.

BMWFS explained that the decision to accept a refinancing application is based on numerous factors that their internal sales team and their underwriters review in line with the relevant regulations and their responsibilities as a finance lender.

It is worth noting that where one lender may lend, another may not. And it is a commercial decision for the lender to make. So, I wouldn't expect the details of a credit assessment to be provided as this is commercially sensitive information to BMWFS.

Ms L believes she was likely declined the refinancing agreement due to her being in an IVA, and she says it is unfair as BMWFS previously had accepted an application for finance when she was also in an IVA. To be clear, BMWFS has not said that the reason the refinance agreement was declined was because Ms L was in an IVA. Having said that, BMWFS did request more information regarding it, which in the circumstances, I think is fair and reasonable to determine whether they are making a fair lending decision.

Overall, I haven't seen anything to suggest BMWFS acted wrongfully during the application process.

Considering things here, I'm satisfied that BMWFS were clear in what they required from Ms L to proceed with refinancing her final payment. And BMWFS gave sufficient time for Ms L to remedy the situation and provide the documents that BMWFS required. While I understand Ms L was ultimately upset that her refinancing application request was declined, as she didn't meet BMWFS's lending criteria, I cannot say BMWFS did anything wrong here. So, it follows that I don't think BMWFS needs to do anything further in relation to this point.

#### BMWFS's customer service

Ms L says she was treated unfairly by BMWFS on several occasions.

Ms L says that she was told in July 2022 that her final payment would be refinanced. I haven't seen any evidence to suggest BMWFS said this. So, it follows, I don't think BMWFS need to do anything further in relation to this point.

Ms L says she tried to contact BMWFS by telephone for over a month and was unsuccessful. While I accept it may have been difficult for Ms L to contact BMWFS on occasions, I'm also mindful that if she found it difficult to contact them by telephone, other forms of contact were available, such as by email. So, I can't fairly say BMWFS have done anything wrong here.

Ms L also says that BMWFS were rude and dismissive to her in September 2022 when she spoke to them. While call notes haven't been provided relating to this call, I think it is likely a phone call still took place between BMWFS and Ms L. I say this because I can see from system notes in September 2022, around the time Ms L says she contacted BMWFS, that they declined her refinancing application.

On balance, from what I have seen, there isn't enough for me to conclude that BMWFS were rude or dismissive to Ms L. While I appreciate Ms L's frustration, I can't conclude BMWFS made an error here.

### **My final decision**

For the reasons I've explained, I don't uphold this complaint. So, I don't require BMWFS to do anything more here.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms L to accept or reject my decision before 4 April 2025.

Ronesh Amin  
**Ombudsman**