

The complaint

Mrs N is complaining about the quality of a vehicle supplied to her by BMW Financial Services (GB) Limited trading as ALPHERA Financial Services (BMWFS).

What happened

In October 2023, Mrs N acquired a vehicle via a hire purchase agreement with BMWFS. She paid a deposit of £500 and borrowed £34,160 – the cash price of the vehicle (including fuel) was £34,660. The car was first registered in March 2021, and it had done just under 15,000 miles by the time Mrs N acquired it.

Mrs N complained to BMWFS in September 2024. She said she'd experienced smoke coming from the car on two occasions. Mrs N told BMWFS she'd had a recall letter from the manufacturer of the vehicle in July 2024, but it had taken a long time to get the car booked in for the recall. Mrs N told BMWFS she wanted to reject the vehicle.

BMWFS looked into Mrs N's complaint but didn't provide a response within eight weeks, so Mrs N brought her complaint to our service.

When she did so, Mrs N told us that the car seemed ok when she first bought it but did smell a bit odd. She said she'd been unwell with headaches, dizziness and sickness and thought it was related to the car. She told us when she received the recall letter she couldn't get the car booked in until October, but the garage had told her it was safe to drive, so she'd continued. Mrs N said smoke started coming from the car early in August but when she spoke to the manufacturer they couldn't replicate the problem and told her it might be a one off. They said to get back in touch if it happened again, which it did in mid-September. Mrs N said at that point she demanded they take the car in. The garage carried out the recall repairs and told Mrs N there had been oil fumes going into the car. They said the issues were directly related to the recall and were corrected by the recall repairs. At that point, Mrs N said, she went to BMWFS and told them she wanted to reject the car.

Mrs N added that BMWFS hadn't dealt with her complaint in a timely manner and that this had caused her a lot of stress and added to her health problems. She said she didn't feel she could use the car, and that this was impacting all sorts of aspects of her life.

One of our investigators looked into Mrs N's complaint. He said he hadn't seen any evidence that the car continued to be faulty after the repair had been carried out, so he couldn't say Mrs N should be allowed to reject the car. He did think that BMWFS should pay Mrs N £300 for the impact the incident had had on her.

BMWFS accepted our investigator's view, but Mrs N did not. She said she didn't think £300 covered the detriment to her mental and physical health caused by BMWFS. She said their delays prolonged her exposure to the oil fumes in the car. And she said she didn't feel safe in the car so had to pay alternative transport costs and ultimately had to sell the car. Mrs N said when she sold it, she had to pay over £7,000 to exit the agreement which has left her in financial difficulties.

Mrs N felt all of this should be taken into account when considering the amount of compensation BMWFS should pay her. She asked for an ombudsman to review the case – and it's come to me.

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, and acknowledging it'll be very disappointing for Mrs N, I've reached the same conclusion as our investigator. I'll explain why.

The agreement in this case is a regulated consumer credit agreement. As such, this service is able to consider complaints relating to it. BMWFS were the supplier of the goods under this agreement and are therefore responsible for a complaint about their quality.

The Consumer Rights Act 2015 (CRA) is of particular relevance to this complaint. It says that under a contract to supply goods, there is an implied term that "*the quality of the goods is satisfactory*". To be considered satisfactory, the CRA says the goods need to meet the standard that a reasonable person would consider satisfactory, taking into account any description of the goods, the price and other relevant circumstances. The CRA also says that a consumer has the right to reject goods if after one repair, the goods do not conform to the contract.

BMWFS supplied Mrs N with a car that was around two and a half years old and had travelled nearly 15,000 miles. And the price of the car was lower than it would have been if it had been supplied new. So, it's fair to say a reasonable person would expect parts of the car might have already suffered some wear and tear.

From the information provided I'm persuaded there was a fault with the car. That's because I've seen the job sheet from a garage which diagnosed and fixed the car. That job sheet says: "*as engine temperature increased confirmed definite smell of burning oil inside & outside of cabin.*"

BMWFS obtained an independent inspection of the car which was carried out at the end of November 2024. This report noted that because the faults with the car were associated with the recall, they should be classed as present or developing at the point of sale. So I'm satisfied the car was not of satisfactory condition when BMWFS supplied it to Mrs N.

However, the independent inspection report also said that there was no evidence of any ongoing problems at the time of the inspection – there were no fault codes, no odour or smoke, and no visual evidence of any oil leaks. The report said that the recall has most likely resolved the issues and the car was considered to be in reasonable condition for its type, age and mileage.

I appreciate Mrs N has told us that she thought the problems had continued after the recall repairs had been carried out. But she hasn't provided any evidence of this. In the absence of any other evidence, I find the inspection report provided by BMWFS persuasive and I'm satisfied the car was of satisfactory condition once the repairs had been carried out. On that basis, I can't say Mrs N should be allowed to reject the car.

However, I've also considered how BMWFS handled the matter when Mrs N told them about the problems she was having. Mrs N made it clear to BMWFS that she didn't feel able to drive the car. And the frequency and nature of her emails and phone calls to BMWFS make it clear how stressed she was about the situation. A month after she first contacted BMWFS, she escalated her complaint, explaining in detail her vulnerabilities and how the delays in resolving the complaint were impacting her. Despite this, there continued to be delays, miscommunication and contradictions in BMWFS's investigation of Mrs N's complaint, and they ultimately weren't able to reach a conclusion on the matter before the end of the eight-week period within which a business is supposed to respond to consumer's complaints.

Given the significant impact this was having on Mrs N, I'd have expected BMWFS to prioritise the resolution of her complaint, but I can't see they did. I agree with our investigator that they should pay Mrs N £300 to compensate her for the impact their delays had on her.

I appreciate Mrs N thinks the compensation figure should be much higher. She's told us that because she no longer trusted the car she incurred alternative transport costs and then had to pay £7,000 to exit the agreement. I can't ask BMWFS to compensate Mrs N for these costs because they arose from choices she made. I can understand why she made those choices, but it wouldn't be fair to ask BMWFS to pay for them without evidence that the car remained faulty after the recall repairs were carried out.

I've also considered the impact of the faults on Mrs N's health. Whilst I don't doubt that Mrs N's been unwell, I haven't seen any evidence that confirms a link between the health problems she was experiencing with the oil leak in the car. Mrs N told us she wasn't in good health before she bought the car. And what she's told us about the impact of the car on her health has been inconsistent and self-contradictory – for example, she's given several different dates as to when the car started to impact her health. So, I've only been able to include a limited amount of compensation for the impact on Mrs N's health up to the point she complained. And, as noted above, I've seen no evidence that there was still a problem with the car after she complained.

All that remains is the impact of BMWFS's delays and poor communication once Mrs N had brought the matter to their attention. As I've explained, I can see the matter caused Mrs N a significant amount of stress and inconvenience. And I can understand this given she found herself with a car she felt was undriveable. But some of this was unavoidable – it wouldn't be reasonable to expect BMWFS to have completed their investigation within a few days, even once Mrs N had told them about her vulnerabilities. The independent report which effectively concluded BMWFS's investigation was provided at the end of November 2024, nine weeks after Mrs N first contacted BMWFS. Whilst I would have expected this to have been carried out earlier, I don't think BMWFS caused delays of more than about three weeks.

Taking everything together, I'm satisfied the £300 suggested by our investigator is fair and reasonable compensation.

My final decision

As I've explained above, I'm upholding Mrs N's complaint. BMW Financial Services (GB) Limited trading as ALPHERA Financial Services need to pay Mrs N £300 to compensate her for the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs N to accept or reject my decision before 29 May 2025.

Clare King
Ombudsman