

The complaint

Mr E complains that BMW Financial Services (GB) Limited ("BMWFS") unfairly terminated his personal contract purchase agreement.

What happened

Mr E acquired a car under a 48-month personal contract purchase agreement (PCP) which is a type of hire purchase agreement in December 2021. Under the agreement Mr E was required to make a first repayment of £1,379.85, 46 monthly payments of £1,379.85 and a optional final repayment of £47,777.67 if he wanted to keep the car.

In January 2024 BMWFS received a notification from the police to inform it that the vehicle had been seized. Mr E says whilst the vehicle was at a local garage an unknown third party was driving the vehicle. In February 2024 Mr E was made aware what documents BMWFS required in order to assess if it was going to continue with the agreement and in March 2024 a default notice was issued.

Following this, in March 2024 Mr E raised a complaint with BMWFS. He was unhappy that BMWFS issued a default notice which subsequently resulted in the termination of the agreement. He also complained about the impact this had on his credit file.

BMWFS looked into Mr E's concerns, in short it didn't uphold the complaint. It said by Mr E signing the agreement he agreed that BMWFS reserved the right to terminate if any of the events listed in its terms and conditions occurred and Mr E did not remedy it within the required period. It said it had acted correctly in issuing the default notice and termination of the agreement. But given the length of time it took issuing its final response to Mr E it offered to compensate him £250 for any distress and inconvenience its delay may have caused.

Mr E remained unhappy and so referred his complaint to our Service. Our Investigator looked into things and didn't think BMWFS had acted unfairly. He said based on the evidence he was persuaded the car had been sub-hired and as per the terms and conditions under the agreement, BMWFS were entitled to issue the default notice and to terminate the agreement.

As an agreement couldn't be reached the complaint has been passed to me for 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. I haven't commented on every specific point because I don't believe its affected what I think is the right outcome. Where evidence has been incomplete or contradictory, I've reached my view based on 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. Mr E was supplied with a PCP. This is a regulated consumer credit agreement which means we are able to investigate complaints about it.

The credit agreement sets out the detail of the contract between Mr E and BMWFS. But before considering this in any detail it's worth noting that BMWFS told this Service Mr E had been subletting the vehicle whilst in his possession. I've reviewed the information it sent which I find persuasive. Whilst the invoice it sent covers a different period to when the vehicle was seized, I find it plausible and more likely that the vehicle was sub-let when the police seized the vehicle.

Turning to the contractual obligations under the agreement, I've included what I think are the relevant sections where appropriate:

- *Section 4. Your Care of the Vehicle. Until the Vehicle is returned to us at the end of this agreement, or you become the owner of the Vehicle, you must:*
 - (g) keep the Vehicle in your possession and under your control and not sell, rent or dispose of it ...*
 - (j) not use or permit the Vehicle to be used for hire, professional driving instruction or other financial reward ...*
- *Section 6. Our Rights to End this Agreement Early. We will have the right to end this agreement, after sending you any notices required by law if any of the events listed in clause 7 below occur and you do not remedy them within the required period...*
- *Section 7. Events of Default. The events of default referred to in Clause 6 are:*
 - (d) you do not keep possession of the Vehicle, or the Vehicle is seized, arrested, sold or abandoned or someone else acquires any rights over it....*
 - (m) any event occurs, or circumstances arise in which, in our reasonable opinion, is likely to materially and adversely affect the Vehicle or your ability to perform all or any of your obligations under this agreement."*

After reviewing the contract, I am of the opinion that a breach of the agreement has occurred, although it is not related to payment. The wording of the agreement suggests BMWFS regards the hiring out of the vehicle as a serious breach, which entitles it to issue a default notice. Once such a notice has been issued, the responsibility falls on Mr E to remedy the default. However, in the circumstances of this complaint it is not possible for Mr E to do so, as the act of hiring out the vehicle cannot be undone.

Based on the evidence I'm satisfied BMWFS acted reasonably in issuing the default notice and terminating the agreement, it was legally entitled to do so under the terms and conditions of the agreement.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 14 July 2025.

Rajvinder Pnaiser
Ombudsman