

The complaint

Mr W complains about the quality of the car he acquired through a hire purchase agreement with BMW Financial Services (GB) Limited trading as Alphera Financial Services ("Alphera").

What happened

Mr W entered into an agreement with Alphera in late March 2023 to acquire a used car. At the time he acquired it, the car was approaching seven years old and had covered approximately 39,000 miles.

Mr W lived a considerable distance from the supplying dealership, and after driving the car home, he's said he contacted the dealership to raise concerns about the car. I can also see that around three days after the agreement date, there is a note on Alphera's contact notes saying that Mr W called them to say he had had problems with the car, and "had advised the garage he wanted to retract the agreement".

Mr W has provided numerous emails to the dealership about the issues, but there was no further contact logged with Alphera on their contact notes until June 2023, when I can also see they logged a complaint from him.

Mr W has told us that he had issues with the lane departure system while driving home, and there was a burning smell. He wasn't willing to return to the dealership, which was over 400 miles away from his home, so said he would have the car checked by a local garage.

I can see an estimate by a local garage to him dated 4 April 2023, listing costs for:

Front brake pads, rear brake pads, rear brake discs, a crank shaft seal, trim clips, rear diffuser, wheel refurbishment x 3, a lane departure part loom, and 8 hours of labour.

It seems that later in April 2023, the supplying dealership authorised repairs to repair some faults, but did not authorise the repairs to the brake pads. I believe Mr W accepted this, the repairs were done locally to him, he sent an invoice to the dealership for the agreed items, and he was refunded for the costs of this. I believe he also paid himself to have the brake pads replaced where needed, they are on the same invoice from the garage.

Mr W has said that in May 2023 he received the car back, and then went away with work for three weeks. When he returned in late May 2023, the car wouldn't start which was diagnosed as being due to an issue with the battery, and he needed a new battery.

The contact notes from Alphera show contact with Mr W in July 2023, where they note he has said he wants to reject the vehicle, and in August 2023, which says Mr W told them he would only accept rejection as an outcome.

At some point during this period, it seems there was potentially again a fault with the lane departure system, and a fault was found with the heating blowers. Evidence of this is limited, but I can see estimates from the local garage on 16 August 2023 saying the blower motor needed replacing at £189.27, and a lane departure camera needed replacing at £1024.25.

Computer codes about the lane departure camera were discussed, but no further evidence of these codes has been provided. It confirmed there were no codes present about the heating blowers.

Just prior to this, on 14 August 2023, the car had been seen by a main dealer reasonably local to Mr W, who had confirmed the battery was dead, and the blowers weren't working, but said there were no stored fault codes about the blowers so this would need further diagnosis. There was no mention about the lane departure cameras and any issues with them or any codes showing.

Alphera issued their final response letter shortly after this in August 2023. They said that as they had seen no diagnosable fault to this point with the car, and work carried out had been in relation to wear and tear, they weren't upholding it.

Mr W brought his complaint to our service shortly after this. An investigator investigated the complaint and didn't uphold it. They said Mr W hadn't returned the car to the dealer to allow them to diagnose any faults, so they hadn't had chance to do anything or fairly decide what to do. He said Alphera had said there was no diagnosable fault, and he agreed with this, and said while the blower fault had been established, again there was no diagnosis about what may have caused it.

During the investigation, before giving their opinion, the investigator had attempted to mediate an agreement between the parties, by attempting to get agreement to the repairs that were needed and for these to be done, but Mr W said he understood the Consumer Rights Act 2015 ("CRA") meant that the business needed to prove faults were not present during the first six months, and technically they had all appeared within the first month of purchase.

He went on to say that he didn't understand how the car could be sold as an "approved" car when he didn't believe it met the standards associated with this label, which he felt was a mis-sale. He then said that now, the car had been off the road for the vast majority of the first nine months so he felt Alphera should compensate him, and he was entitled to reject it. He asked for an Ombudsman to review the complaint.

I issued a provisional decision on this case on 24 January 2025, and that said the following:

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 W was supplied with a vehicle under a hire purchase agreement. This is a regulated consumer credit agreement which means we're able to investigate complaints about it.

The Consumer Rights Act 2015 ('CRA') says, amongst other things, that the vehicle should've been of a satisfactory quality when supplied. And if it wasn't, as the supplier of goods, Alphera are responsible. What's satisfactory is determined by things such as what a reasonable person would consider satisfactory given the price, description, and other relevant circumstances.

In a case like this, this would include things like the age and mileage at the time of sale, and the vehicle's history and its durability. Durability means that the components of the vehicle must last a reasonable amount of time.

The CRA also implies that goods must conform to contract within the first six months. So, where a fault is identified within the first six months, it's assumed the fault was present when the vehicle was supplied, unless Alphera can show otherwise. But, where a fault is identified

after the first six months, the CRA implies that it's for Mr W to show it was present when the vehicle was supplied.

So, if I thought the vehicle was faulty when Mr W took possession of it, or that the vehicle wasn't sufficiently durable, and this made the vehicle not of a satisfactory quality, it'd be fair and reasonable to ask Alphera to put this right.

I think having read the large amounts of testimony from Mr W, its important to focus on the CRA and what this means for him. The first part of the above description is key here; "what is satisfactory is determined by the things such as what a reasonable person would consider satisfactory given the price, description and other relevant circumstances. In a case like this, this would include things like the age and mileage at the time of sale..."

I think there is some confusion here around the word "fault" which appears later in the description of the CRA. It's important to recognise that this means a fault which would mean a reasonable person would say the car was of unsatisfactory quality, based on its age/price/mileage etc.

Alongside this, I think its important to recognise that we are investigating a complaint raised by Mr W in June 2023, and which Alphera answered in August 2023. Mr W has continued to complain of further faults after this, and whilst I will comment on some of them here, I've not seen evidence that these issues were raised with Alphera directly as a complaint.

Mr W clearly had some issues after he collected the car, but it's also clear he accepted the repair of these issues. Having read his communications with Alphera and the emails he has sent us between himself and the supplying dealership, he's talked about potentially rejecting the car, but again, I'm not persuaded his understanding of the short term right to reject in the first 30 days is accurate. He doesn't have an option just to end the agreement and give the car back. There needs to be evidence that the car is not of satisfactory quality. I will go through the items highlighted as being faulty, to consider the potential to reject the car initially.

The listed required repairs at the time, which comes from the estimate provided by Mr W's local garage, are: "Front brake pads, rear brake pads, rear brake discs, a crank shaft seal, trim clips, rear diffuser, wheel refurbishment x 3, and lane departure part loom".

If I deal with these individually, brake pads and discs are "wear and tear" items on an almost seven-year-old car. If Mr W had concerns about the state of these items, I'd expect him to have inspected the car before buying it, and if he wasn't happy with the condition of these wear and tear items, to have negotiated with the dealership about this.

Similarly, a need for refurbishing wheels (presumably alloys) is something he can clearly see when he buys the car, so he's chosen to buy the vehicle with the wheels in the condition they were, or he's damaged them further after acquiring the car. Neither of these scenarios puts any responsibility on the supplier of the car to deal with this.

The crank shaft seal and the diffuser are debatable issues. It would be hoped they would last longer than the 39,000 miles the car had covered, but the car is seven years old, and these parts lifespan is dependent on road conditions and environmental factors too. So, I don't think it's clear these issues made the car of unsatisfactory quality. When buying a used vehicle, it's rare to have details of the previous usage of the car, and its quite possible that the damage to these parts was due to the environmental issues and type of use the car got during its first seven years, before Mr W acquired it.

Alongside this, Mr W has accepted repairs for these issues, and the business have

reimbursed him the cost for these repairs, which feels a fair resolution. Of the other items, the trim clips quote was for £4.92, and the lane departure part loom was quoted at £33. I'm satisfied these are very minor issues which wouldn't bring into question the satisfactory quality of the vehicle, and they were repaired at no cost to Mr W.

For these original repairs required therefore, I don't think these are issues meaning the car was of unsatisfactory quality when supplied. Mr W also mentioned bodywork issues, and although I haven't seen evidence of these, I think it's important to highlight that he had the opportunity to inspect the car before signing the paperwork and driving away. I'd expect him to ensure he's happy with visible cosmetic issues like bodywork before accepting the vehicle, so this wouldn't fall into any considerations here about the satisfactory quality of the vehicle when supplied.

The next issue raised by Mr W before he complained to the finance company was the battery needing replacement. This is a wear and tear part, and whilst he has said it wasn't the original manufacturer battery, when buying a used vehicle, we can't be sure how long ago the battery may have been previously changed. The car was by this point seven years old.

Batteries can fail for many reasons, and lifespan is variable. Alongside this, Alpera did offer to replace it free of charge, which feels fair and reasonable, but it seems Mr W declined this as he'd decided he wanted to reject the vehicle.

Mr W has talked a lot about how this vehicle was advertised as a manufacturer "approved" car, and that he didn't believe it would meet the standards of this promise, meaning it must have been mis sold. I don't agree that this issue would mean the car was misrepresented to him and have seen no details or proof of what the car being approved would have meant. I am assessing whether the car was of satisfactory quality based on the CRA, not considering the marketing of it, for which I've been provided no evidence to consider.

At the point of his complaint, these are the only issues I have seen evidence of, and I'm not persuaded they show that the car was of unsatisfactory quality, and he had the right to reject it. Following on from his complaint, and just before he's received his final response letter (FRL) from Alpera, he has raised two further issues. One was that the blowers for the heater didn't work, and the other was that a lane departure camera had failed.

He has got his local garage to examine the car and to quote for repairs to these, and they have said it would be £1024.25 to replace the camera, and £189.27 to replace the blower heater motor. Whilst Alpera didn't get chance to answer these concerns, I think it's fair for me to cover this off as it was at the same time roughly as the complaint.

The heater blowers would be hoped to have a slightly longer lifespan than this, but again, that's dependent on things like environmental factors. I can't say that in a seven-year-old car that's travelled 39,000 miles, this issue makes the vehicle of unsatisfactory quality, its wear and tear and not a big cost.

With regards to the lane departure camera, the evidence on this is unclear. On the 16 August 2023 the car was at a main dealer, who've noted the blower's not working and said there were no fault codes about this. But there's no mention from them about the lane departure camera or any fault codes relating to that. This suggests that Mr W hadn't mentioned it as an issue at that point, and there were no fault codes highlighting this camera wasn't working, as we know they checked the computer system for fault codes.

Two days later, the local garage to Mr W has quoted a fault code for this issue and said the camera needs replacing. This suggests that the camera has potentially failed between the

two garage visits which were two days apart in August 2023.

The local garage has confirmed this failure is not related to the small repair they did previously to the lane departure system. I've considered again whether this is a fault which makes the car of unsatisfactory quality. It seems most likely from the various inspections and diagnoses and their timeline that the camera wasn't faulty at the point of sale and has in fact failed during August 2023. I've gone on to consider the expected lifespan for this part, and whether it was durable. Whilst I would expect a camera to last several years, there is no specific lifespan for these cameras, and how long they last can again be impacted by the previous use of the car and its environment.

Whilst I accept it's unfortunate that this camera has failed only a few months after the car was supplied and have empathy for Mr W, I am satisfied that for a seven-year-old car, this would still fall under wear and tear, and doesn't make the vehicle of unsatisfactory quality.

Mr W has told us and showed us that he's lost faith in the car and barely used it since acquiring it. MOT records provided confirm this. I'm sorry he's felt this way, but I'm afraid I don't agree that the car was of unsatisfactory quality. The issues raised by him are either cosmetic, or wear and tear issues. A high spec car like this can cost more to maintain when it gets older, and I have empathy that several issues have surfaced shortly after he's acquired the car. But that doesn't make the car of unsatisfactory quality in relation to the CRA, and I've seen no clear reasons why he would choose not to use the car at all.

Mr W has mentioned that he also feels Alpera should compensate him for the time he was originally without a car, and said it was somewhere around two to three weeks. I've seen no evidence of this and based on the estimate from the garage being that they needed to carry out eight hours of labour, which included fixing a number of issues like brakes and wheel refurbishment which are cosmetic or wear and tear, and not relevant to this complaint, I can't say that he should receive compensation for how long this took. It was his choice to get the car repaired locally to him, and so if they've taken much longer than would be required to carry out these repairs, it wouldn't be fair to hold Alpera liable for this. I've seen no evidence of the car being "off the road" after this due to quality issues, other than when it needed a new battery, which Mr W declined to have replaced when offered.

Mr W has described the car as "not roadworthy", but I've seen no evidence that supports this description. He believes he had the short term right to reject the vehicle within the first 30 days, but I've seen no evidence he even asked Alpera to do this. However, I can understand that the specifics of this can be difficult to understand, so on the basis there were a considerable number of conversations Mr W had with the supplying dealership, I've thought about whether he should have had the right to reject the car.

I do think the conversations show evidence of the dealers being slow to reply to him, which Mr W may consider was potentially to try to "get past" the 30-day period in which he had the right to short term rejection. But the issues he has raised, and the repairs that were carried out initially, are not issues which in my opinion made the car of unsatisfactory quality under the CRA. Similarly, the next issue was with the battery, which I also don't agree would give him the right to reject the car. I've still seen no evidence of any fault or repair needed that in my opinion would have made the car of unsatisfactory quality and given him the right to reject it.

In communications earlier this year, Mr W told us that when trying to MOT the car, it had failed due to DPF faults, and two failed front tyres, despite only driving the car for a total of 600 miles. There have been no DPF faults mentioned previously in his complaint in 2023, so I can't comment on this, and tyres are clearly a wear and tear item, although I'm very unclear how the tyres can have gone from legal, to illegal, in the space of 600 miles. He had the

opportunity to inspect the tyres before acquiring the car however, so I don't feel this is relevant to his concerns here.

Mr W has also told us in March 2024 that the car was at the manufacturer dealership and needed over £4,000 of repairs. I have seen no other evidence of this, and as I've mentioned before, none of this, aside from the lane departure camera cost or heater/blower repairs potentially, was raised at the time of his complaint in June 2023. There is an email from January 2024 suggesting some issues with the DPF, but this doesn't form part of this complaint as it wasn't raised as an issue in 2023 when he brought the complaint to Alpheria or our service.

It may be that there are other issues which Mr W hasn't brought to either Alpheria or our service to consider because he was hoping to reject the car. If that's the case, Mr W always retains his rights to complain to Alpheria about any other issues now or in the future. But it's important to recognise that he's now had the car for approaching two years, so it will now fall to Mr W to provide proof that any issues were present or developing at point of sale. The fact he's chosen not to drive the car isn't relevant to that, he's had access to the car and once six months passes, the requirements under the CRA change, and it becomes Mr W's responsibility to evidence and demonstrate that any faults were present or developing at the point of sale.

I'm not persuaded that Mr W had the right to reject this vehicle based on the evidence provided. Alongside this, Alpheria paid for the relevant minor repairs needed originally, and then offered to pay for replacement of the battery at the time in 2023, and he declined, so on this basis, I also won't be asking Alpheria to do anything more.

My provisional decision

My provisional decision is that I don't intend to uphold this complaint. I'll read any further comments or evidence from either party received by the deadline before making my 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.

After sending this provisional decision, Mr W has come back to me with some comments. These are as follows. He doesn't feel some of the things that have gone wrong are due to wear and tear but are in fact faulty items. He also doesn't feel the cost of the various parts that need replacing is reasonable for a used car that cost him £25,000, and he's never had these kind of maintenance costs on other cars he's owned. He also feels that he should be refunded some payments because of the issues with the car initially and time taken getting repairs agreed with the supplying dealer. These meant it was off the road for four weeks, it wasn't because of delays with the repairing garage.

Overall, he doesn't feel that a main dealer should have been supplying a car that was in this condition. He also mentioned it wasn't fair that the battery failed and wasn't repaired/replaced when Alpheria offered to do this originally. He's also gone on to mention problems with the DPF and said that isn't a part which should fail. I will deal with these one by one.

I've outlined in my provisional decision why I am satisfied that the parts that have failed are due to reasonable levels of wear and tear, and not faulty. I accept that from just a mileage point of view, some of the parts may feel like they are wearing out slightly sooner than he

might have expected. But the car was almost seven years old when supplied, and wear and tear is about both mileage covered and age. As a used car, we can't know what sort of conditions and driving it was exposed to by any previous owner or owners, or indeed whether its low mileage was due to it being left idle for periods which can also impact on how quickly parts wear out.

As such, on balance of probability, I am satisfied that all these issues raised and/or repaired when Mr W originally complained are most likely to be wear and tear, rather than satisfactory quality faults. As I explained in the provisional decision, the Consumer Rights Act 2015 (CRA) describes how satisfactory quality is linked to what a "reasonable person" feels is satisfactory based on things like the age/mileage of the car. Having weighed up the issues with the car, and the age/mileage and other considerations, I am satisfied that it's most likely a reasonable person would say these were wear and tear problems, and maintenance issues.

Mr W has gone on to say that the cost of these repairs is excessive to be maintenance for a car of this value, and he hasn't had costs like these on other used cars he's owned. Obviously, I don't know details of other cars he's owned, but I don't think this is relevant to this complaint. This car is quite a high spec/prestige model, and these types of cars can involve higher costs to repair/replace parts when they wear out or require maintenance of some sort.

Unfortunately, that can be part of owning a prestige car model and should be considered when acquiring one. Alongside this, it's unfortunate that several parts are reaching the end of their normal lifespan at around the same time, but unfortunately, this can just be the luck of the situation, or it may be to do with how the car has been used or serviced previously. Either way, I'm satisfied that these are wear and tear issues meaning replacement of some parts is needed, and it doesn't make the car of unsatisfactory quality.

With regards to his concerns with the DPF, as I've said, these don't form part of this complaint as they weren't raised, or it seems present, when Mr W complained to Alphera in 2023. However, without answering them, it may be helpful to recognise that a DPF system needs regular use on reasonable length journeys to enable it to regenerate properly, so the fact Mr W has told us he hasn't been using the car may well have led to some of the issues he may subsequently be suffering. But as I say, this isn't part of this complaint, so I'm not making a finding on this, this is purely for information purposes. Mr W is entitled to complain to Alphera separately about the DPF should he choose to do so, and it will be a separate complaint with separate rights to refer to our service after that.

With regards to the battery replacement, Alphera did originally offer to do this, but I'm not asking them to do this now. Mr W declined their offer and said the only outcome he was prepared to accept was a rejection of the car, so I am satisfied they offered to repair or replace the battery, and he declined. I don't feel it's now fair for me to ask them to carry this out so long after they offered to do it originally and he declined. The state of the battery after he hasn't used the car for a long period now will have declined further. Mr W may wish to speak to Alphera himself to see whether they are still prepared to honour their original offer here, but I'm not making a finding that they need to do this, as this is a wear and tear repair required, which under the CRA, falls on Mr W to cover the costs of repair/replacement.

Mr W's overriding concern seems to be that it's not fair for a main dealer to supply a car of this quality as he sees it. I am answering a complaint about satisfactory quality made to the finance company. With regards to satisfactory quality and considering the relevant legislation, the CRA, I am satisfied that this car was of satisfactory quality when supplied to Mr W. I'm afraid any perceived higher level of quality Mr W thinks the main dealership should adhere to isn't part of these considerations; the CRA provides a standard which needs to be

adhered to, and I'm satisfied that in this case, it has met this standard.

Finally, with regards to the fact that the dealership authorised repairs on some parts when he raised the issues after his drive home, like the brakes, I accept he may feel that the car shouldn't have left the dealers in that condition. Mr W has said that he accepts the condition of the tyres and wheels was his responsibility to visually check, but he gave the example of the brakes being a safety issue.

I've seen no evidence the brakes were illegal or unsafe; his garage report/quote just quotes prices to replace the brake discs and pads, with no commentary on how worn they were. Mr W also commented about an oil leak in the engine which was dripping onto the exhaust and could have started a fire, but I've seen no detail or evidence for this either, and no specific quote to repair an oil leak or commentary on it from a mechanic/garage, so I can't agree this made the car unsafe.

I'm satisfied that Alphera accepted the limited garage report/quote he provided and paid for Mr W to have relevant repairs carried out at a garage of his choosing nearer to his home. I'm satisfied this was done in a timely fashion, and I won't be asking them to do any more.

My final decision

I am not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 13 March 2025.

Paul Cronin
Ombudsman