

## The complaint

Mr T complains that a car supplied to him under a hire purchase agreement with BMW Financial Services GB Limited trading as Alphera Financial Services (AFS) is of unsatisfactory quality. Mr T also complained that the vehicle was misrepresented to him.

## What happened

The circumstances surrounding this complaint and my initial findings were set out in my provisional decision which said:

*"In September 2021, Mr T entered into a hire purchase agreement with AFS to purchase a used car. The car was just under five years old and had travelled around 51,803 miles. The cash price of the car was £38,990.00. The total amount repayable on the agreement was £48,499.28. This was to be repaid by 48 monthly payments of £644.86 with an optional final payment of £17,546.00 if Mr T wanted to purchase the vehicle.*

*Mr T has raised issues with the quality of the car, explaining he had issues with it around one to two weeks into the agreement, going on for around two years after this. Mr T also said that the vehicle was misrepresented to him as he only found out much later on from the point of sale that the vehicle was supplied with non-manufacturer alloy wheels, and the alloys that were fitted to the vehicle voided the manufacturer's extended warranty.*

*Mr T complained to AFS about the issues he was having. AFS agreed to cover the cost of a repair that needed carrying out due to the extended warranty being invalid. However, Mr T explained that he then faced further issues with the vehicle's engine management light (EML). AFS didn't consider they needed to do anything else in regards to the complaint as it said there was no evidence the issues were present or developing at the point of sale and that the current issues were not linked to previous repairs. Mr T was unhappy with this and so brought his complaint to this service, where it was passed to one of our investigators. The investigator didn't uphold the complaint. It was their outcome that the car had not been misrepresented to Mr T as there had not been a false statement of fact about it, and that the car was of satisfactory quality when it was supplied. The investigator explained this is because the issues were more likely to be down to fair wear and tear based on the vehicle's age and mileage at the point the issues happened.*

*Mr T was unhappy with this and raised further points for consideration. The investigator explained that even if they considered that there had been a misrepresentation, they aren't sure Mr T wouldn't have purchased the vehicle regardless, due to his actions following discovery of the non-manufacturer alloy wheels. The investigator also explained that as the vehicle had been repaired and those repairs allowed by Mr T, the vehicle can't be rejected as being of unsatisfactory quality after the repairs have been carried out successfully and that as the vehicle has been repaired, with Mr T agreeing to the repairs, the car cannot now be rejected due to unreasonable delays in carrying out repairs.*

*Again, Mr T was unhappy with this response and asked for his complaint to be referred to an Ombudsman. Because of this, the complaint has been passed to me to make a decision."*

I sent Mr T and AFS my provisional decision on 28 August 2025. I explained why I thought the complaint should not be upheld. The key parts of my provisional findings are copied below:

### **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.

*"Mr T acquired a car under a hire purchase agreement. Entering into consumer credit contracts like this is a regulated activity, so I'm satisfied we can consider Mr T's complaint about AFS. AFS is also the supplier of the goods under this type of agreement meaning they are responsible for a complaint about the supply of the car and its quality.*

*The Consumer Rights Act 2015 (CRA) is relevant in this case. It says that under a contract to supply goods, there is an implied term that "the quality of the goods is satisfactory, fit for purpose and as described". To be considered as satisfactory, the CRA says the goods need to meet the standard that a reasonable person would consider satisfactory, considering any description of the goods, the price and all the other relevant circumstances.*

*So, it seems likely that in a case involving a car, the other relevant circumstances a court would consider might include things like the age and mileage at the time of sale and the vehicle's history. The CRA also explains the durability of goods is part of satisfactory quality.*

*In this case, Mr T acquired a car that was almost five years old and had travelled around 51,803 miles. As this was a used car with this mileage and age, it's reasonable to expect parts may already have suffered significantly more wear and tear when compared to a brand-new car or one that is less travelled. There could be a greater risk this car might need repair and/or maintenance sooner than a car which wasn't as road-worn.*

*Firstly, I'll look at the satisfactory quality element of this complaint, and then I'll explore the misrepresentation argument.*

#### **Satisfactory quality**

*I've reviewed the available evidence about the issues Mr T explained he's experienced with the car. Based on what I've seen, I'm satisfied that there were faults with the car. I say this because neither AFS nor Mr T dispute the vehicle had a fault with the transfer box that needed replacing, alongside other work that required carrying out earlier on the vehicle in regards to juddering Mr T was complaining about. I've also seen an invoice confirming the transfer box needed replacing.*

*Having considered the car had a fault, I've considered whether it was of satisfactory quality at the time of supply.*

*I acknowledge Mr T's frustration with the issues he's told us he's encountered.*

*I can see that Mr T was raising a juddering issue with the vehicle from early on in his ownership, and had works carried out to try to resolve this. Unfortunately the work carried out didn't appear to resolve the juddering. I say this because I can see the invoice from the manufacturer linked repairer shows they were investigating the juddering of the vehicle, and diagnosed that a transfer box replacement was needed.*

*Having considered the available information, I'm not persuaded the vehicle was of*

satisfactory quality when it was supplied. I say this because Mr T agreed to pay a not insignificant amount for the vehicle, and a reasonable person may expect to be able to use it for longer than he did without the juddering issue appearing. There appear to be at least one occasion to try to fix the juddering, before it was diagnosed as needing a transfer box replacement. This persuades me that the fault was present or developing at the point of sale, as Mr T was raising this early on in the agreement in late 2021, and it appears to have continued until the repair in 2023.

Having said this, I'm persuaded that the fair outcome would have been to repair the vehicle. I say this because AFS are entitled to a chance to repair the vehicle under the circumstances, and Mr T has accepted repair. The attempts then don't appear to fix the vehicle, but another chance to repair is accepted by Mr T, meaning that rejection of the vehicle is not an option once the repairs have been accepted. I'm persuaded the repair did resolve the issue with the transfer box as I have no evidence to show that there were any other issues that were present or developing at the point of sale, or that the transfer box repair did not resolve things and as such, I'm persuaded that the fair outcome was repair, and that the repairs succeeded.

Mr T went on to explain that the EML came on, and I can see there is some dispute between the repairer and Mr T as to who had the vehicle when that happened. However, I have no direct evidence confirming what the fault is, whether it is likely to have been present or developing at the point of sale, and if it makes the vehicle of unsatisfactory quality. Mr T has supplied information regarding a possible EGR fault code, however I have not seen expert documented evidence diagnosing this fault. I can see that the vehicle passed MOTs in 2024 at 75,126 miles and 2025 at 85,563 miles without any mention of an EML being illuminated.

It is also noted that Mr T appeared to be late with a service on the vehicle that could have contributed to potential issues. I acknowledge Mr T would not want the EML to come on, as this can indicate there could be an issue that requires attention. However, I have no evidence to show that there is a confirmed fault what this fault is or how it occurred, and as such, I'm not persuaded that the EML illumination makes the vehicle of unsatisfactory quality when it was supplied. Since the point of supply, up to the MOT in 2024, Mr T had been able to travel around 23,323 miles in just over two and a half years. I would consider this to be around or above average mileage.

Mr T also explained that he was unhappy that repairs were not carried out in a reasonable timeframe, as laid out by the CRA. I acknowledge Mr T's point around this, however as the repairs were accepted and carried out, and I have nothing to persuade me the vehicle remains of unsatisfactory quality in those aspects, I am unable to say that rejection of the vehicle due to unfair delays is fair here. Had the vehicle remained unrepaired, and Mr T was still awaiting the transfer box repair, or if Mr T had asked to reject the vehicle whilst waiting repairs that were taking an unreasonable amount of time and then didn't want to proceed with repair due to this and no longer authorised them, then there may have been an argument for rejection of the vehicle. However based on everything I have, I'm not persuaded that rejection based on timeframes for repair is fair here for the reasons I've explained.

### *Misrepresentation*

Mr T has explained he believes the car was mis sold to him because he wasn't informed that the vehicle had non-manufacturer alloy wheels fitted, that he later found out voided an extended warranty.

To investigate whether there was a misrepresentation of the car at the point of supply, I look at whether there's been a false statement of fact, which could also be a false statement by

omission, meaning AFS may have withheld key information about the vehicle that may have impacted Mr T's decision to acquire it. I'd then consider if the false statement would have induced Mr T to buy the car.

Mr T explained that he would not have purchased the car if he'd known about the wheels not being genuine. I acknowledge what Mr T says about this. I think a reasonable person would want to be made aware of information like this, when purchasing a car with a cash price of just under £40,000.00.

I've not been able to see the advert for the vehicle or see what was disclosed about the wheels. However, there is one key piece of information that persuades me that there has been a misrepresentation by omission in this case. I can see that on the HPI check from the dealership prior to sale, the vehicle has the optional equipment listed and a price when new.

The top of this list shows 20-inch design wheel. The dealership had access to the information here that means it could have reasonably known the alloy wheels fitted to the vehicle were not the ones listed on the HPI check. Wheels could be changed at any point for any number of reasons, but in this case, the wheels are not as listed, and this went on to cause the manufacturer's extended warranty to be invalid, due to the alloy wheels fitted being too large for the maximum size allowed. I'm persuaded there was important information that could have been reasonably known or discovered prior to supply of the vehicle.

Having said this, I'm not persuaded Mr T's decision to purchase the vehicle would have changed had this information been disclosed.

I say this because when Mr T found out about the wheels not being as expected, and them voiding the extended warranty, Mr T said in an email to the dealership in February 2023 that '22 inch non original replica alloys being passed off as manufacturer alloys. You made me aware that once you had fixed part of the vehicle the transmission box would be dealt with by the manufacturer. Since the manufacturer have made me aware of the breach of warranty. I would like to amicably resolve this issue by way of having the manufacturer repair it and you can pay them directly or you can issue me a full refund.'

Following this, around five days later Mr T followed up with the following 'Further to my below email, on collection of the vehicle from your repair workshop, I informed that the vehicle engine management light was displaying in orange, he arranged a quick inspection and informed me that although this light came on whilst in your possession it was not your fault and suggested you would not correct this fault. I have taken further advice on this matter, and the vehicle was delivered to the manufacturer without any engine management light on, it was investigated by the manufacturer and they did not report the engine management turning on in their possession. You picked the vehicle up from the manufacturer and it went into your third party repair workshop and in-between whilst in your possession or the third party garages possession the engine management light turned on, therefore the liability of this engine management light lies with you. You arranged for repair works to be carried out, you carried out various works to the vehicle, drove the vehicle and on collection, I started up the vehicle and the engine management light was on and has remained on ever since.'

From the information I have, I can see Mr T complained in April 2023 to AFS about the ongoing issues but is still looking to have the vehicle repaired in relation to the transfer box that is needed.

I can see that from June 2023 to August 2023 Mr T is still engaging with AFS by email to have the vehicle's transfer box repaired. In September 2023, Mr T emails AFS to explain he

*isn't happy as he feels the vehicle hasn't been repaired due to having it returned with the EML on.*

*All through this time, Mr T does not appear to be asking to have the wheels replaced or to reject the vehicle because the wheels were not as he expected, or that he was greatly unhappy about the wheels the vehicle was provided with. If this was of great concern to Mr T I think it's reasonable to expect him to have complained about the wheels and asked for action to be taken about them specifically irrespective of the transfer box repair. Instead Mr T has asked that the transfer box repair be paid for or he wants a full refund. This persuades me that Mr T was happy to continue with the wheels he had, and only once he felt the vehicle still had quality issues in relation to the EML and tyre pressure monitoring issue along with stating the judder hadn't gone away, did he raise a potential misrepresentation based on the wheels not being manufacturer issued.*

*Because of this I'm not persuaded that the misrepresentation by omission, induced Mr T to purchase the vehicle where he otherwise would not have done so."*

I invited both parties to make any further comments. AFS did not respond to the provisional decision. Mr T responded to disagree with the provisional decision, and supplied further comments to be considered which I have summarised below. Mr T explained the following:

- Mr T was not happy to continue with the non-standard wheels that voided the extended warranty and that the transfer box and alloys were causally linked. His pressing for the repair cannot be interpreted as acceptance of the alloys. Mr T added that had he known about the alloys he would not have purchased the vehicle.
- Mr T believes the vehicle was not of satisfactory quality due to mechanical faults presenting themselves within weeks and the non-standard alloys. Mr T also raised that the vehicle cannot be considered durable.
- Mr T added that the issue with the alloys was raised explicitly in February 2023 and was central to the blocked warranty claim for the transfer box and that the conclusion that misrepresentation did not induce the purchase is unsustainable.
- Mr T had serious concerns over the alloys from the outset, the vehicle developed serious defects within weeks, repairs were drawn out over two years and were not carried out in a reasonable timeframe.
- Alongside this, Mr T also explains that AFS didn't meet regulatory standards and failed to treat him fairly, and that the Ombudsman's statutory duty is to reach a fair and reasonable outcome in all the circumstances, ignoring independent manufacturer evidence and immediate February 2023 complaint cannot meet that duty.

I thank Mr T for supplying his comments in reply to the provisional decision. Having carefully considered all of the evidence alongside Mr T's comments, My provisional findings haven't changed, I'll explain why below.

Mr T explains that the non-standard alloys were of real concern to him from when he found out about them, and his initial complaint makes this clear, and the fact that he wanted the dealership to cover the cost of the repair due to the warranty being voided should not be taken as acceptance of the alloys.

I acknowledge what Mr T raises here, however, I'd expect a reasonable person wholly unhappy with the alloys as they were, to have pressed for remedy as soon as they found out

about it. As outlined in my provisional decision, Mr T raises the issue as he said he did when he found out the warranty wouldn't cover the transfer box repair and asks for repair or refund, but from then on is only liaising about a repair to the transfer box.

Mr T's unhappiness with the wheels does not come up again until Mr T is unhappy that the new issues such as the engine management light and how the vehicle has been returned are not considered to be the dealership's responsibility. It appears from the evidence available that if the vehicle did not come back with further issues that Mr T considered to be the dealership's responsibility, I'm not persuaded that Mr T would have raised further issue with the alloys.

I say this because there is nothing to show Mr T was unhappy with this after he first raised the issue, and when he was unhappy with the vehicle being returned with the engine management light on. For me to be persuaded Mr T wouldn't have purchased this car due to the alloys, I'd need to see evidence showing he was significantly unhappy about this, and continued to follow this up for remedy.

I acknowledge Mr T's position that the alloys and the transfer box are linked, as there is no question the alloys have voided the manufacturer extended warranty, but from the evidence available, if the vehicle was repaired without the further issues around the engine management light, I'm not persuaded that Mr T would have pursued the alloy issue further. I'd like to acknowledge Mr T's point around ignoring manufacturer evidence. I understand why Mr T may think that has happened, but I can assure him no evidence has been ignored, it is just that had the dealership carried out the repair in place of the manufacturer warranty, I'm not persuaded Mr T would have raised the issue with the alloys again. In my provisional decision, I have agreed that there has been a misrepresentation by omission, and I am still satisfied this is the case, but for the reasons explained, I'm not persuaded this induced Mr T to purchase the vehicle based on his actions after he knew about the alloys.

Mr T has since raised that the vehicle did not match the description of the HPI check. The information mentioned is what was available to the dealership, showing information about the vehicle and its optional equipment along with a price when new. I have no evidence to show that this information was used to describe or advertise the vehicle in the vehicle advert and that this information would have induced Mr T to buy the vehicle when he otherwise wouldn't have. Parts may well change on a vehicle at anytime in its lifespan from the parts it was originally supplied with. There is no evidence the HPI check or the information contained within it was used to induce Mr T to purchase this vehicle by misrepresentation. I acknowledge that Mr T believes AFS have not treated him fairly, however I have nothing to show that AFS have treated Mr T unfairly in such a way that the vehicle should be rejected.

I acknowledge Mr T's position that the vehicle was not of satisfactory quality when it was supplied, and the questions raised around durability, which itself is a part of satisfactory quality. As outlined in my provisional decision, I agree that the vehicle wasn't of satisfactory quality when it was supplied and as such I would not consider it durable from the point of sale. Having said this, I also explained that the fair outcome would have been repair of the vehicle. There was an attempt to repair the vehicle, and when this repair appears to have failed, Mr T may have been within his rights to reject the vehicle, however, another chance to repair was accepted by Mr T, meaning that rejection of the vehicle is not an option once the repairs have been accepted and completed.

I'm still persuaded the repair fixed the issue with the transfer box, as I have no evidence to show this failed and that there were any other issues that were present or developing at the point of sale. I explained in my provisional decision that I'm not persuaded the engine management light issue made the vehicle of unsatisfactory quality, as I have no confirmed evidence showing what the fault is, what is the cause and if it was present or developing at

the point of supply.

Mr T explained that the repairs were not carried out in a reasonable timeframe and repair was drawn out over two years. I acknowledge this is a long time to wait for repair. As outlined in my provisional decision, as repairs were accepted and carried out, I am unable to say that rejection of the vehicle due to unreasonable delays is fair here. If the vehicle was still awaiting repair, there may be a stronger argument for rejecting the vehicle under the CRA at that point. Mr T was able to travel what I'd consider to be average or above average mileage from the point of supply up until his MOT in 2024, so it doesn't appear that Mr T's usage of the vehicle was unreasonably hindered whilst awaiting repair, although I acknowledge that it did take a long time for these to be diagnosed and to take place.

Mr T explained that it is the Ombudsman's duty to reach a fair and reasonable outcome, and this is correct. When deciding cases, I must take into consideration a number of factors including relevant laws and regulations alongside what is fair and reasonable. Having done this, as explained above, I'm persuaded that the vehicle was not of satisfactory quality when it was supplied, but that repair was a fair outcome and that this repair had taken place successfully, meaning the vehicle was no longer of unsatisfactory quality, and that there was a misrepresentation by omission, but that I can't conclude this induced Mr T to purchase the vehicle where he otherwise would not have done based off of the evidence available once Mr T found out about the misrepresentation, although I acknowledge that Mr T disagrees with this strongly.

### **My final decision**

For the reasons I've explained, I do not uphold Mr T's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 20 October 2025.

Jack Evans  
**Ombudsman**