

The complaint

Mr D has complained that BMW Financial Services(GB) Limited, trading as BMW Financial Services ('BMWFS'), has treated him unfairly while he's been experiencing financial difficulties.

What happened

Mr D entered into a finance agreement with BMWFS in January 2022, for a new car. Subsequently, due to a drop in income, he contacted BMWFS as he wanted to end the agreement. He also said he was unhappy with how much the car had depreciated in value.

BMWFS responded in April 2024. It explained that vehicles do depreciate in value over time, and this should be considered when making a purchase. As regards returning the car and ending the agreement, BMWFS said that Mr D couldn't hand the car back with nothing further to pay. Instead, it provided the following options:

- settle the agreement in full to release title. The vehicle can be sold to a retailer or private individual;
- part-exchange the vehicle, with the current agreement being settled in full;
- refinance through a retailer or third-party finance company;
- voluntary terminate ('VT') the agreement. Mr D would be required to hand the vehicle back and would be liable for 50% of the finance, plus possible charges for pro-rated excess mileage and damage deemed outside of fair wear & tear. BMWFS could look to agree a payment plan for the outstanding balance; or
- a financial break of 50% of payments for three months, however this would result in a further three months of higher payments.

Unhappy with this, Mr D complained to our service. One of our investigators looked into what had happened, and thought the complaint should be upheld.

He considered the industry guidelines, which require businesses to treat consumers in financial difficulty with forbearance and due consideration. This includes exploring and offering appropriate and manageable solutions based on a thorough understanding of the consumer's financial situation. But he couldn't see that BMWFS had carried out any sort of income and expenditure assessment, after Mr D had explained his change in circumstances. And when it became aware of Mr D's health concerns, it didn't take any steps to support him. Nor did it signpost him to any organisations that may be able to help.

While Mr D's complaint has been with us, BMWFS has put forward further suggestions for how to resolve things. But our investigator didn't think these went far enough, as they would still leave Mr D with a significant outstanding shortfall. He also noted that BMWFS did not offer VT in these later options, which would in fact have been a better option financially for Mr D than voluntary surrender ('VS'), which was suggested.

Taking everything into account, our investigator thought BMWFS should end the agreement and collect the car, with nothing further for Mr D to pay. He also thought it should refund the interest paid from the date Mr D made his complaint, until the termination of the agreement.

This would be in line with the industry guidelines, which advise firms to suspend or reduce interest charges to avoid worsening a consumer's financial difficulties. And finally, he thought BMWFS should pay Mr D £350 compensation for the distress and inconvenience caused.

BMWFS disagreed, and proposed the following:

- allow Mr D to VS the car;
- once the VS has been completed, collect the car at no cost to Mr D;
- if there is a balance left, set up a payment plan with Mr D, ensuring he's treated with forbearance; and
- pay him £500 for the distress and inconvenience caused.

Mr D didn't agree with this. He's also since indicated that he'd like to VT the agreement, as he's now halfway through it.

The complaint was then passed to me. As my reasoning and proposed remedy differ from those of our investigator, I issued a provisional decision, giving both parties the opportunity to respond with anything further. My provisional decision was as follows.

First, I'd like to say that I can see Mr D is experiencing a very difficult and stressful time, and I'm sorry he's in this situation. I understand that this matter is significantly adding to this. I've thought very carefully about what I think should happen now.

Having done so, and despite my considerable sympathy, I don't agree with the investigator, that Mr D should have been able to hand the car back with nothing further to pay. While I understand that there's been a considerable change in Mr D's circumstances, I think the most appropriate thing to have happened, would have been an income and expenditure assessment. Then, all of Mr D's options could have been presented to him, such as VT and VS under the terms of his finance agreement, and a realistic repayment plan could have been arranged for whichever option he chose, to cover any shortfall. I say this because although Mr D had faced a loss of income, it may have been that a repayment plan could have worked.

Mr D has now indicated that he'd like to VT the agreement, as he's halfway through it, so can do so with no further monthly repayments owing under the terms of the finance agreement. As regards this, I note that VT at no further cost is available when half of the finance has been paid off, rather than when half of the duration of the agreement has lapsed. In this case, I understand that half of the finance has been repaid, but I would appreciate confirmation of this from BMWFS. I agree that VT seems the fairest and most sensible solution, with the lowest cost implications.

I agree with our investigator that it would have been appropriate for BMWFS to have waived the part of Mr D's monthly repayments that constituted interest, from and including January 2024, when he first made BMWFS aware that he was experiencing financial difficulty, until the date of the VT. But it is also reasonable, therefore, that any interest refunded, or that would have been due from now until the date of the VT, should be treated as having been paid for the purposes of calculating what, if anything, would be due upon such termination (specifically, whether 50% of the finance has been repaid).

I can see that BMWFS has recently offered Mr D £500 for the distress and inconvenience caused. I think this is an appropriate sum, to reflect that BMWFS could, and should, have done more to assist Mr D, such as suspending interest, chasing up an income and expenditure assessment, signposting him to sources of help, and explaining his rights and

the cost of VT in its most recent offer.

Finally, I've thought about the depreciation in the car's value. But I'm satisfied that Mr D would reasonably have known that it would depreciate, and BMWFS can't be held responsible for this. I've seen nothing to suggest that he was told it would hold a high value, such as to induce him into entering into the finance agreement.

BMWFS accepted my provisional decision. Mr D said he was disappointed by it, and that in the time between our investigator's view and my provisional decision, he's paid back a significant sum under the agreement.

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.

I do understand Mr D's disappointment. But he's not said anything to persuade me that my provisional decision is unfair. Although he's made monthly repayments between the investigator's view and my decision, these would have been payable to get him to the halfway point, whereby he could VT the agreement. And that's what I consider to be fair.

Accordingly, I see no reason to depart from my provisional findings.

Putting things right

To put things right, BMWFS should:

- refund all interest Mr D has paid from and including January 2024, adding 8% simple interest a year, from the date of each interest payment, to the date of settlement;
- assist Mr D in the voluntary termination of his finance agreement, should this be how he wishes to proceed, and arranging a realistic repayment plan if any sums remain outstanding. For the avoidance of doubt, any interest refunded as required above, or that would have been due from now until the date of the voluntary termination, should be treated as having been paid for the purposes of calculating what, if anything, would be due upon such termination; and
- pay him £500 compensation for the distress and inconvenience caused.

My final decision

For the reasons given above, it's my final decision that BMW Financial Services (GB) Limited, trading as BMW Financial Services, must take the actions set out above, in the section entitled 'Putting things right'.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 8 April 2025.

Elspeth Wood
Ombudsman