

The complaint

Mr L is unhappy that a car supplied to him under a Personal Contract Purchase (“PCP”) agreement with BMW Financial Services (GB) Limited trading as BMW Financial Services (“BFS”) was of an unsatisfactory quality.

When I refer to what Mr L has said and what BFS has said, it should also be taken to include things said on their behalf.

What happened

In September 2022, Mr L was supplied with a new car through a PCP agreement with BFS. The cash price of the car was £59,298.07 and Mr L paid an advance payment of £22,500. The term was for 36 months, with 35 payments of £349.99 per month, followed by an optional final payment of £29,205.16.

Around six months after the car was supplied, Mr L found that the driver’s door wouldn’t close during cold weather. His local dealership didn’t identify a fault and the problem couldn’t be recreated during investigation. Mr L complained to BFS because he thought the car was of unsatisfactory quality. In the absence of any evidence of a fault to repair, BFS issued a final response letter, dated May 2023, not upholding the complaint. Mr L brought his complaint to this service, but we didn’t think BFS had done anything wrong. This first complaint was closed and it is not the subject of the current complaint.

In January 2024, Mr L found the same problem, so he complained to BFS and sent video evidence. Mr L also brought his complaint to this service, after which BFS set out its position, which remained the same as its May 2023 response.

BFS said Mr L hadn’t evidenced a fault that would’ve been present at the time of supply and, given the time that had passed, the onus was on him to do so. Although Mr L had sent the video evidence, BFS said it had already explained to him that it didn’t have the expertise to confirm a fault from his evidence, and he would need to get an opinion from a specialist, preferably in the form of diagnostics.

Mr L was unhappy with this response, so our investigator looked into his complaint.

Our investigator said the video confirmed a fault and that, on balance, it had been present from the date of supply. He thought BFS should end the agreement and refund Mr L’s deposit, refund 10% of his monthly payments in recognition of the impaired use, reimburse the cost of a service, and pay interest on the refunds. Our investigator said BFS should take back the car at no further cost to Mr L and pay £350 compensation for the distress and inconvenience caused.

BFS didn’t agree with the investigator. It said Mr L was responsible for showing that there was a fault that had been present from the date of supply, and that hadn’t changed. BFS said Mr L hadn’t taken the car back to the original supplier, and the dealership Mr L had approached hadn’t identified a fault. BFS sent the video to the supplier, which said that

freezing weather had stopped the closing mechanism, and that defrosting would resolve matters. Therefore, BFS didn't think Mr L had demonstrated a fault.

I issued a provisional decision in February 2025 explaining that I was intending to not uphold Mr L's complaint. Here's what I said:

provisional decision

In considering this complaint I've had regard to the relevant law and regulations. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome. Where evidence has been incomplete or contradictory, I've reached my view on the balance of probabilities. Mr L was supplied with a car under a PCP agreement. This is a regulated consumer credit agreement which means we are able to investigate complaints about it.

The Consumer Rights Act 2015 (CRA) covers these agreements, and there is an implied term that the goods supplied will be of satisfactory quality. The CRA says that goods will be considered of satisfactory quality where they meet the standard that a reasonable person would consider satisfactory, taking into account relevant circumstances, such as cash price and age. The CRA says the quality of the goods includes their general state and condition, as well as other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability.

So, if I thought the car was faulty when Mr L took possession of it, it'd be fair and reasonable to ask BFS to put this right.

Fault

From the evidence, it seems that Mr L's complaint is, simply, that the car door won't shut during cold weather. BFS said he hasn't provided evidence that a fault was present from when he was supplied with the car in 2022.

Looking at the evidence BFS provided, the supplying dealership said that Mr L didn't contact it about the car at any time after supply in September 2022. I can see that Mr L took the car to another dealership for other matters during the first six months of possession, and he must've commented on the problem with the door because the invoices reflect that. But I haven't seen anything to suggest that the supplying retailer had an opportunity to investigate or repair a fault, and BFS didn't receive evidence of the problem Mr L was experiencing until more than a year after the car was supplied.

It's notable that the dealership Mr L took the car to was unable to identify a fault with the door.

I've watched the video Mr L sent to BFS and it's clear that the door doesn't catch when he pushes it shut. The door bounces back to an ajar position as if something is preventing it from catching. What's also clear in the video is that the car is frozen over, and the dashboard shows the temperature outside the car is 0.5 Celsius. Mr L confirmed that this problem only happens in cold weather.

I've considered BFS's response to Mr L's complaint about the fault. It hasn't said there isn't a fault – rather it said it didn't have the expertise to diagnose anything from the video. BFS said that during contact with Mr L in January 2024, it advised him to take the video to a retailer/expert for diagnostics. I haven't seen anything to indicate that he followed BFS's advice.

In its responses to Mr L, BFS has said it would reconsider his complaint about the car on receipt of evidence of a fault. The video provides limited information – for example, it's not clear whether de-icing was sufficient to fix the problem - so I don't think it was unreasonable of BFS to ask Mr L to obtain diagnostics evidence.

Based on this evidence, I don't think Mr L has demonstrated that there's a fault with the car, so I can't reasonably say that BFS should end the agreement.

BFS's response

I've thought about BFS's comments in response to our investigator's view and to Mr L's video evidence. To begin with, I see BFS has always said it would reconsider Mr L's complaint if he provided evidence of a fault and, as I've said, I can't see that he supplied any diagnostics evidence. BFS sent the video to the supplier and, based on what could be seen, it provided an explanation of why the door wasn't shutting.

The car has a frameless door. In cold weather the window can freeze causing it to stay in place when the door is opened, rather than dropping slightly. So when the door is pushed to close, the window hits the rubber seal causing the door to bounce back. The supplier said this is resolved by defrosting.

I've looked online and find that this is commonplace in cars with frameless doors, so I don't think BFS's reliance on this evidence is unreasonable. Simply put, the car's door is frozen due to cold weather. And as Mr L confirmed that the problem only happens in cold weather, I think it's more likely than not that the problem is weather-related rather than a fault with the car.

Conclusion

Based on the evidence available to me, I'm minded not to uphold Mr L's complaint. That's because I don't think Mr L has provided BFS with evidence of a fault likely to have been present from the date of supply, and there's sufficient evidence to suggest the problem Mr L has experienced with his car is due to external, environmental factors rather than a fault.

As there's no evidence of a fault, and because I'm not planning to ask BFS to end the agreement, I see no reason to ask it to pay compensation, refund any payments or pay for any servicing.

I realise this will be disappointing for Mr L, but I can't reasonably say that BFS has done anything wrong here.

I asked both parties to send me any further comments and information they might want me to consider before I reached a final decision.

Responses

Mr L didn't accept my provisional decision. He provided evidence of contact he had with the supplying dealership to report the fault, and responses from the manufacturer's technical service. Mr L also provided a further video of the problem he experienced with the door.

BFS accepted my provisional 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, the further evidence provided by Mr L doesn't persuade me that a change to the outcome is warranted. I'll explain why.

I've watched the further video Mr L provided which shows the same problems with the door closing, and which he says is after defrosting. Therefore, he doesn't agree that defrosting will resolve matters. BFS had asked the manufacturer for its opinion, which said defrosting should resolve matters.

I must rely on the evidence available to me when reaching a decision. Here, the technical responses are to defrost or allow the car to warm up. In his email to the supplying dealership, Mr L said the door only closes once the car has warmed up. Therefore, based on the evidence from both parties, I'm persuaded that BFS reasonably concluded that the problem with the door closing is primarily environmental.

I've also noted the email trail of Mr L's request to reject the car, sent to the supplying dealership in April 2023. I understand he provided this evidence to show that he had contacted the supplying dealership before complaining to BFS. While I can see Mr L did email the supplier, it was simply to reject the car more than six months after supply. I can't see that the dealership had an opportunity to inspect the car. The dealership responded as follows:

To reject a vehicle there needs to be satisfactory evidence that the vehicle in question is not fit for purpose. I believe the [car] has been into your local dealer ... and there has been no fault found therefore unfortunately there are no grounds to reject the vehicle.

Mr L said the supplying dealership didn't offer to inspect the car and that at no point has there been a thorough inspection of his car doors. The evidence shows that his local dealership couldn't identify a fault, and I don't think it was unreasonable for another branch to accept the findings. The evidence doesn't say how thorough the inspection was but, as a door failing to close would be clear to see, I think it's likely that there was no fault to inspect at the time.

Mr L said it's incorrect to say he didn't seek technical advice and he's provided evidence of doing so. However, the evidence he's provided shows that there was no fault identified. BFS said it would look again at his complaint if he provided a diagnostic report. While I appreciate that might mean waiting for cold weather, I don't think it's unreasonable that the onus is on Mr L to prove there's a fault.

To be clear, I haven't concluded that there isn't a fault. Indeed, nor has BFS. The position remains that the car has not been presented for inspection when the problem is happening,

or likely to happen. A diagnosis has been given based on the video evidence, and I can't say BFS has been unreasonable in saying that it won't do anything more unless a technical diagnostic indicates there is a fault likely to have been present on the date of supply.

I can understand that this must be frustrating for Mr L, especially given the specific details he's mentioned in respect of his health. However, I haven't seen anything in the evidence to suggest that Mr L has demonstrated there was a fault with the car, likely to have been present at the time of supply. Therefore, I see no reason to ask BFS to end the agreement.

My final decision

For the reasons I've explained above, and in my provisional decision, my final decision is that I don't uphold Mr L's complaint about BMW Financial Services (GB) Limited trading as BMW Financial Services.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 5 May 2025.

Debra Vaughan
Ombudsman