

The complaint

Mr M is unhappy with the quality of a car supplied by BMW Financial Services(GB) Limited trading as ALPHERA Financial Services using a hire purchase agreement

What happened

In August 2023 Mr M entered into a hire purchase agreement with BMW for a used car. The car was around six years old and had been driven for 69,000 miles. The cash price was £31,088.

In January 2024, after the car had been driven around 5,000 miles, Mr M paid for a diagnostic test to be carried out. The report said there was issues with the air cooler leaking internally, the exhaust backbox had cracked at the flexi part, and the ball joint gaiter was split. It also said the front disks and brake pads were worn.

Mr M contacted BMW to complain about the problems. A resolution wasn't reached, so he brought the complaint to our service.

One of our investigators looked into everything and said she thought the car was of satisfactory quality when it was supplied. She thought the problems Mr M experienced were wear and tear issues that she would expect to develop in a car of a similar age and mileage.

Mr M didn't agree with the investigator's findings and asked for an Ombudsman to look into the case, so, it has been passed to me to review.

Since the investigator issued her findings, Mr M has had repairs completed on the air cooler, coolant system and exhaust.

I sent Mr M and BMW my provisional decision on this case, on 19 March 2025. I explained why I think the complaint should be upheld. A copy of my provisional findings is included below:

Mr M acquired his car using a hire purchase agreement and so The Consumer Rights Act 2015 is the relevant legislation for this complaint. The Act sets out expectations and requirements around the quality of goods supplied. In summary, goods should be of satisfactory quality. Satisfactory quality is essentially based upon what a reasonable person would consider to be satisfactory. In instances like this when considering the quality of a car, the age, mileage and price are some of the things that I think would be considered to be reasonable to take into account.

If the purchased goods are found to be defective after 30 days but within six months, then the supplier must be given one opportunity to repair or replace the goods.

I've considered the issues that the diagnostic report highlighted with the car. I've noted that the report was carried out by the car's manufacturer, so I'm persuaded that there are confirmed faults with the vehicle. I've also considered the cars mileage, age, the length of

time Mr M had it, how much it had been driven and what a reasonable person would expect the condition to be in.

In doing this, I think that the front disks and brake pads being worn would be considered a wear and tear item. At the time of the diagnostic the car had been driven 74,313 miles and was around six years old. So, I think a reasonable person would expect that these would need servicing at this point. It follows that I don't think BMW are responsible for these issues.

I've gone on to consider that the car had been serviced regularly when it was supplied and in line with the manufacturer's instructions for the most part. I've also thought about the price Mr M paid for it, its age and its mileage. I don't think Mr M had used the car excessively when looking at the mileage from when he purchased the car from when the diagnostic test was carried out.

And so, considering all of this, I don't think a reasonable person would've expected the amount of issues Mr M experienced so soon after getting the car. It follows that I think the problems with the air cooler, exhaust backbox at the flexi part and the ball joint gaiter means the car was of unsatisfactory quality when it was supplied.

Because a reasonable person wouldn't say the car was of satisfactory quality at the point of supply, I think there's been a breach of contract under the CRA. The remedy would be for BMW to repair the car, but they haven't done this. Considering the time it has taken to diagnose these issues, and that Mr M requires his car to work, I think it is reasonable that Mr M repaired the repairs himself.

Mr M has already had repairs completed on the air cooler, coolant system and exhaust. He has provided an invoice for this of £1,409.08. So, BMW should cover the cost of these repairs. They should also pay Mr M £210 for the cost of the diagnostic report he paid for.

BMW should also pay him simple interest of 8% on these amounts from the date Mr M paid them to the date of settlement of the complaint. This is because Mr M has been without the use of these funds.

Mr M is yet to organise repairs needed to the ball joint gaiter. So, I think it's fair for BMW to reimburse Mr M for the cost of these repairs, if Mr M is able to provide an invoice.

Mr M replied to my provisional decision providing evidence of the repairs he had carried out on the ball joint gaiter in June 2024. This cost him £563.95. He also explained that he had to get repairs completed to the drive shaft in February 2025.

BMW didn't send any further comments by the response deadline in the 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.

I've thought about the recent repairs Mr M had completed on his car. I've considered that it has now been two years since he acquired it and it's been driven around a further 30,000 miles. And so, I don't think this information changes the findings in my provisional decision.

Mr M also sent an invoice showing he had repairs completed on the ball joint gaiter in June 2024. As he has been without the funds for this repair since this time, BMW should also pay him simple interest of 8% on this amount from the date Mr M paid it to the date of settlement of the complaint.

As I didn't receive any further comments from BMW, I see no reason to depart from the conclusions I reached in my provisional decision.

Putting things right

My decision is that I uphold this complaint and ask BMW Financial Services(GB) Limited trading as ALPHERA Financial Services to:

1. Refund Mr M £1,409.08 for the repairs he arranged in August 2024, subject to him providing proof of payment to BMW.
2. Refund Mr M £563.95 for the repairs he arranged for the ball joint gaiter, subject to him providing proof of payment to BMW.
3. Refund Mr M the £210 he paid for the diagnostic report;
4. Add interest at a rate of 8% a year simple to parts one to three of this settlement from the dates they were paid, to the date of settlement of this complaint.*

*BMW must pay these amounts within 28 days of the date on which we tell them Mr M accepts my final decision. If they pay later than this, they must also pay interest on the settlement amount from the date of final decision to the date of payment at 8% a year simple.

If BMW deducts tax from any interest they pay to Mr M, they should provide Mr M with a tax deduction certificate if he asks for one, so he can reclaim the tax from the tax authorities if appropriate.

My final decision

My final decision is that I uphold this complaint and ask BMW Financial Services(GB) Limited trading as ALPHERA Financial Services to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 15 May 2025.

Ami Bains
Ombudsman