

The complaint

Mr Y complains about what happened when he asked to return a car supplied under a hire agreement, provided by BMW Financial Services(GB) Limited (BMWFS).

What happened

Around October 2024 Mr Y acquired a new car under a hire agreement with BMWFS. The car is listed with a total cash price of £28,669 on an invoice. Mr Y was due to pay an initial rental of £2,208.84 followed by monthly rentals of £368.14 a month for 23 months.

Unfortunately, Mr Y says the car had issues. He says when he first tested it he could hear knocking noises from the engine. Mr Y says because of this he asked to reject the car within 14 days of getting it.

Mr Y then raised a complaint with BMWFS. He said as this was a distance sale, he had a right to return the car within 14 days. BMWFS wrote to Mr Y, explained it had not yet been able to resolve things and gave the right to refer the complaint to our service. Mr Y did so at the end of December 2024.

BMWFS then issued a final response at the end of January 2025. This said, in summary, that BMWFS' legal team had advised that as this was a distance sale, Mr Y had a right to return the car for 14 days starting from the date the agreement was signed. BMWFS said this was on 19 October 2024, and Mr Y didn't ask to return it within this timeframe.

BMWFS also said Mr Y had no right to reject the car under the Consumer Rights Act 2015 ('CRA') as he had not shown any evidence it had a fault.

BMWFS said Mr Y had been waiting too long for an answer to the request to return the car and acknowledged some customer service issues. It offered £100 to reflect this.

In February 2025 Mr Y confirmed to our service that he'd had to use the car to avoid losing his job. He sent a photo showing the mileage as 4,677.

Our investigator then issued a view. He said, in summary, that he thought the Consumer Contracts (information, Cancellation and Additional Charges) Regulations 2013 ('CCR') explained that goods supplied under a hire agreement can be returned within 14 days of them being delivered. He said as Mr Y asked to return the car within this period, he should've been allowed to do so. He said he now thought Mr Y should be able to return the car.

Our investigator said BMWFS should retain the monthly payments made and a pro rata portion of the initial rental to reflect the usage of the car. But he said Mr Y should get back the unused portion of the initial rental and said BMWFS should pay him £200 to reflect what happened.

Mr Y responded and agreed with what was said.

BMWFS responded and disagreed. It said the right to cancel applied to 14 days from the date the contract was signed, not the date of delivery. It proposed for Mr Y to take the car to a dealer to diagnose any faults, and said it would cover the cost of this.

Our investigator responded and explained he didn't agree. And he asked BMWFS to point to where the CCR said the period started from the date the contract was signed.

BMWFS said that it believed a hire agreement is a 'service contract' under the regulations, not a 'sales contract', as the title of the goods would never pass to Mr Y.

Mr Y then responded and said he wasn't worried about getting any money back, he just didn't want the car any more due to the impact the situation was having on his health.

As BMWFS remained unhappy, the case was passed to me to decide. I sent BMWFS and Mr Y a provisional decision on 20 May 2025. My findings from this decision were as follows:

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, I initially think the offer BMWFS has already made is fair and reasonable to put things right. I'll explain why.

Mr Y complains about a car supplied under a hire agreement. Entering into regulated consumer credit contracts such as this is a regulated activity, so I'm satisfied I can consider Mr Y's complaint against BMWFS.

I'm satisfied the crux of this complaint is whether Mr Y had a right to return the car or not when he asked to. So, this is what I'll consider.

When considering what's fair and reasonable, I take into account relevant law, guidance and regulations. There are two main things to consider here, the CRA and the CCR. I'll firstly cover off Mr Y's rights under the CRA and what this means for his complaint.

The CRA says, in summary, that under a contract to supply goods, the supplier – BMWFS here – needed to make sure the goods were of 'satisfactory quality'.

Satisfactory quality is what a reasonable person would expect, taking into account any relevant factors. I'm satisfied a court would consider relevant factors, amongst others, to include the car's age, price, mileage and description.

In this case I'll consider that the car was brand new, and worth nearly £30,000. So, I think a reasonable person would expect it to be in excellent condition, be free from even very minor defects and would expect trouble free motoring for a considerable length of time.

The CRA sets out the 'short term right to reject'. This explains that Mr Y could have the right to reject the car within 30 days of it being delivered. But, and absolutely key to this case, it's important to note that this right only applies under very specific circumstances, including if the car was of unsatisfactory quality.

Mr Y has explained that the car made a noise he was uncomfortable with. I've thought very carefully about what he said. But I've been provided with no other evidence of any fault such as any reports, invoices, or testimony from any mechanics or third party garages etc. And Mr Y, as far as I know, never returned the car to the dealer for it to inspect. I've also considered that the car has covered several thousand miles, apparently without incident.

Thinking about all of this, I'm not persuaded Mr Y's car had any fault with it. I'm satisfied this means it was of satisfactory quality. And it follows that I find Mr Y had no right to reject the car under the CRA. So, BMWFS didn't do anything wrong when it did not allow him to do so.

I've then gone on to consider the CCR. This sets out, in summary, rights consumers have in relation to "distance contracts".

The first thing to consider is whether the contract entered into by Mr Y and BMWFS was a distance contract. The CCR explains:

"“distance contract” means a contract concluded between a trader and a consumer under an organised distance sales or service-provision scheme without the simultaneous physical presence of the trader and the consumer, with the exclusive use of one or more means of distance communication up to and including the time at which the contract is concluded;”

All parties agree on this. Mr Y raised this specific point. And I've seen from BMWFS' contact notes –

“The SR has confirmed it a distance sale” (I have assumed SR is ‘supplying retailer’ – i.e. the dealer).

And on an email from the dealer to BMWFS:

“Yes this was a distance sale”

So, I find this was a distance contract. This gave Mr Y certain rights, including the right to cancel the contract. From S29 of the CCR:

“The consumer may cancel a distance or off-premises contract at any time in the cancellation period without giving any reason, and without incurring any liability”

“The cancellation period begins when the contract is entered into and ends in accordance with regulation 30 or 31”

What is in dispute here is when the time limits should apply from. BMWFS believes this stands at 14 days from when the contract was entered into. Our investigator thought this was 14 days from when the car was delivered to Mr Y. So, I've considered what the CCR states here.

S30 explains:

“(1) The cancellation period ends as follows, unless regulation 31 applies.

(2) If the contract is—

(a) a service contract”

“The cancellation period ends at the end of 14 days after the day on which the contract is entered into”

“(3) If the contract is a sales contract..... the cancellation period ends at the end of 14 days after the day on which the goods come into the physical possession of—

(a) the consumer”

In summary, if the contract Mr Y entered into was a “service contract”, then the cancellation

period began when the contract was entered into. If the contract was a “sales contract” then the cancellation period began when the car was delivered to Mr Y.

Helpfully, the CCR sets out definitions of these under part 5 “other definitions”:

““sales contract”” means a contract under which a trader transfers or agrees to transfer the ownership of goods to a consumer and the consumer pays or agrees to pay the price, including any contract that has both goods and services as its object”

““service contract”” means a contract, other than a sales contract, under which a trader supplies or agrees to supply a service to a consumer and the consumer pays or agrees to pay the price.”

I’ve thought carefully about this. Having done so, I think it’s quite clear in this case that the agreement Mr Y entered into wasn’t a sales contract. I say this as to be defined as such, BMWFS would have to transfer, or agree to transfer, ownership of the car to Mr Y under the contract. But the contract Mr Y entered into specifically states:

“Who owns the vehicle?

We will always remain the owner of the vehicle. You will not have the option of becoming the owner at the end of the agreement”

So, there was no agreement, nor option, for the ownership of the car to transfer to Mr Y. I find the agreement as defined under the CCR was not a “sales agreement” and so was a “service agreement”. It follows I’m satisfied that the relevant 14 day cancellation period began on the date the contract was entered into.

I can see from the hire agreement that BMWFS entered into the contract on 18 October 2024 and Mr Y entered into the contract on 19 October 2024. The first contact I can see from Mr Y asking to reject or return the car is dated 4 November 2024. This is more than “the end of 14 days after the day on which the contract is entered into”. So, it follows that I find Mr Y did not ask to return the car inside the relevant period as set out in the CCR.

In summary, I find Mr Y had no right to reject the car under the CCA. I find he had the right under the CCR to cancel the contract within 14 days of entering into the agreement, but I’m satisfied he didn’t exercise this right within the relevant time frame. It follows this that I don’t think BMWFS did anything wrong when it didn’t allow Mr Y to return the car when he asked.

That being said, BMWFS has acknowledged it should’ve done better when it handled Mr Y’s request to return the car and has noted various customer service issues. It has offered £100 to reflect this. I find this is fair and reasonable to put things right under the circumstances of this complaint.

I gave both parties two weeks to respond with any further evidence or comments.

BMWFS didn’t respond.

Mr Y got in touch and made various points for me to consider.

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 carefully about what Mr Y said in response to my provisional decision.

Mr Y said he was not at home when the car was delivered. But as I explained in my provisional decision, this isn't the date I need to consider here.

Mr Y again reiterated that he thought there was a 'knocking noise' he heard from the engine. He said this raised various concerns about the mechanical integrity of the car, which meant he had the short term right to reject. And he said he'd raised a 'valid expression of dissatisfaction' under the CRA.

I've thought about this. But as I explained in my provisional decision, Mr Y would only have the short term right to reject if there was an issue with the car which made it of unsatisfactory quality. He has still provided no evidence at all, beyond saying there was a noise, that this was the case. And whether he expressed dissatisfaction or not makes no difference to this. So, I still find Mr Y had no right to reject the car.

Mr Y said as he was being forced to keep a car he didn't feel safe in, the mileage allowance should be increased by 16,000 miles a year. Respectfully, I can't see the logic in this request. I find BMWFS do not need to do this in response to this complaint. If Mr Y now needs to use the car more, he can of course contact BMWFS directly to discuss this.

I want to reassure Mr Y that I've carefully considered everything else he said. But, this doesn't change my opinion. I still think, having reviewed everything again, that the conclusions I reached in my provisional decision are fair and reasonable under the circumstances of this case.

My final decision

BMW Financial Services(GB) Limited has already made an offer to pay £100 to settle the complaint and I think this offer is fair in all the circumstances.

So my final decision is that I instruct BMW Financial Services(GB) Limited to pay Mr Y £100.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Y to accept or reject my decision before 2 July 2025.

John Bower
Ombudsman