

## The complaint

Miss F has complained that she is unhappy with the quality of a car she acquired in May 2021, using a hire purchase agreement with BMW Financial Services (GB) Limited, trading as ALPHERA Financial Services ("BMWFS"). Miss F also feels that the car was not suitable for her needs.

## What happened

Miss F acquired a used Land Rover in May 2021, using a hire purchase agreement with BMWFS. The car cost £25,000, of which Miss F borrowed £24,316.64 over a 49-month term. The monthly repayment was £405.57, with a final payment of £12,007 if Miss F wants to keep the car. The car was just over four years old at the point of supply, and the mileage stated on the agreement was 21,966. The agreement allowed for an annual mileage of 10,000.

In November 2023, the car broke down and was recovered to a garage, where a diagnostic test showed a fault with the engine. After further investigation, the garage said that the timing chain had snapped and the car needed a new engine, which would cost around £15,000. In email exchanges with Miss F, the garage referred to oil dilution or irregular servicing as a potential cause, although it said that the car would have to be stripped down for the technician to determine the exact cause. It looks as though the garage approached the manufacturer for a contribution to repairs, but this request was refused.

Miss F took the car to a different, specialist, garage for the timing chains and turbocharger to be replaced at a cost of just over £5,000. Because of the breakdown and necessary repairs, Miss F was unable to use the car, and borrowed a family member's car from November 2023 to May 2024.

Miss F complained to BMWFS about all of this in January 2024, saying that she thought BMWFS should cover the cost of repairs. She also said the car had been affected by oil dilution and diesel particulate filter (DPF) issues, it had required servicing more frequently than that stated timetable, was unsuitable for urban, short, and stop-start use, and was prone to premature failure of mechanical parts. BMWFS issued its final response letter in March 2024, saying that it didn't uphold Miss F's complaint.

Miss F then brought her complaint to this service. Our investigator looked into it, and thought it should be upheld. BMWFS eventually responded to our investigator's view, saying that it didn't agree that the complaint should be upheld. However, in view of the impact on Miss F, it offered to refund some of her monthly payments and some other costs. Miss F was not happy with this, and said that she thought BMWFS should cover at least part of the cost of the repairs. As the parties did not agree, the complaint came to me for review.

I issued a provisional decision in which I explained that I agreed with our investigator's conclusion that the complaint should be upheld, but I proposed to specify the redress slightly differently. Miss F responded to say she accepted my provisional decision. BMWFS did not respond, despite a reminder

## 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.

On balance, I've decided to uphold Miss F's complaint. I'll explain why.

I've taken account of the relevant law, in particular the Consumer Rights Act 2015, ("CRA"). Because BMWFS supplied the car under a hire purchase agreement, it's responsible for a complaint about the quality, and there's an implied term that the car was of satisfactory quality. Cars are of satisfactory quality if they are of a standard that a reasonable person would expect, taking into account all of the relevant circumstances such as (amongst other things) the age and mileage of the car and the price paid. When considering satisfactory quality, I also need to look at whether the car is durable – that is, the components within the car must be durable and last a reasonable amount of time.

There are certain times, set out in the CRA, when a consumer is entitled to reject goods, in this case the car, if they don't conform to contract – a short term right to reject within 30 days of taking delivery, or a final right to reject if a repair or replacement hasn't resulted in the car subsequently conforming – that is, it then being of satisfactory quality.

In this case, the car was just over four years old at the point of supply, and the mileage stated on the agreement was 21,966. And the price was lower than that of a new car. So it's reasonable to expect that parts of the car would have suffered wear and tear, and that a car of this age would likely need repair and maintenance sooner than a newer car.

I set out my reasoning in my provisional decision as follows:

*"Miss F sent in copies of the service history, information about oil dilution issues (some of which seems to originate from the manufacturer), email exchanges with the garage and the detailed invoice from the garage that carried out the repairs. BMWFS sent in copies of the hire-purchase agreement, its notes of its contact with Miss F, and the email exchanges with her, which included documents that Miss F had sent to BMWFS.*

*This is a difficult case to decide as I don't have the benefit of an independent inspection report - I think it would've been helpful had BMWFS commissioned one – and the repairs have been completed. So I need to base my decision on the information I have from both parties.*

*I can see from the service history that, before Miss F acquired the car, it had had its first – full - service in September 2019, at 16,799 miles (the record notes that all the filters had been 'done', which I take to be changed) and a further maintenance service at 21,962 miles in April 2021. Miss F then had the car serviced in October 2022 (at 33,779 miles) and November 2023 (at 44,311 miles). After the first service, each record shows tick boxes to indicate that the brake fluid was changed, and the camshaft/drivebelt was not replaced.*

*There are no other notes to say what was checked, other than a general statement in each case to say that the garage certified that the service was completed in accordance with the manufacturer's schedule applicable to the vehicle. However I don't have a list of the specific items that were checked.*

*A few days after the latest service, the car broke down – the invoice from the garage to which the car was recovered stated that the car wouldn't start, and that, after the timing cover bung was removed, it was found that the timing chains had snapped. There were also*

*signs of contact between the pistons and valves, and internal engine damage was suspected. The recommendation was an engine replacement.*

*The invoice from the repairing garage, provided by Miss F, shows that the car needed a full timing chain kit replacement and a new turbo charger. The total cost of the repairs was £5,059.87 (although I note this included a new battery, two new tyres, a repair to the car horn and an MOT in addition to the main works). The repairs were completed in May 2024.*

*From the evidence provided by Miss F, it's clear that there were faults with the car – in particular the timing chain and turbocharger. I'm conscious that Miss F had had the car for over two years when it broke down, and she'd covered over 23,000 miles (although this was within the 10,000 miles per year allowed under the hire purchase agreement). However, the overall mileage of 45,323 – as shown on the repair invoice – doesn't seem particularly high for a car that was by then about six and a half years old.*

*As I noted above, I don't have the benefit of an independent inspection report, and the invoices Miss F sent in don't include any opinion about the development of the faults. The only comments about the cause were in the email exchange between Miss F and the first garage, which referred to the potential cause of the problem being oil dilution or irregular servicing. However, I note that the service records provided by Miss F show regular servicing. I've considered the information Miss F sent in about oil dilution issues generally, but I have to base my decision on what happened with this particular car.*

*As I stated above, one of the issues I need to consider is whether the car is durable – that is, the components within the car must be durable and last a reasonable amount of time. In the case of the timing chain and turbocharger, failure at just over 45,000 miles does seem very premature – my online research suggests that both should last substantially longer than this – well over 100,000 miles. I've no evidence to indicate that Miss F has caused or contributed to these failures, and indeed she has had the car serviced regularly and her mileage in the car has not been excessive. So on balance it seems to me to be more likely than not that these components were not durable, and therefore the car was not of satisfactory quality at the point of supply.*

*Following our investigator's view that the complaint should be upheld, BMWFS raised a number of points in response. In summary, it said that the issues arose when the car was over five years old, and Miss F had travelled over 22,000 miles – and the car had been serviced very recently. And the oil ought to have been drained and replaced at the service. Had these components been faulty or developing a fault, it would have been evident sooner than 30 months into the agreement. It is fair to expect issues such as these would have been detected during the first service at the least, which could have in turn prevented the eventual catastrophic failure of the engine.*

*BMWFS also said it had had spoken to a Jaguar Land Rover retailer and it had confirmed, in optimum conditions, an owner should consider changing the timing belt between 80,000 and 100,000 miles, but factors such as general wear and tear, driving style and habits impact the longevity of these components. As Miss F had had the vehicle for 30 months, covered over 20,000 miles and the failure occurred after it had been serviced twice by a third-party garage, BMWFS disagreed, on the balance of probabilities, that the car was not of satisfactory quality or durable at point of sale. As an additional point, it noted that some items on the invoice Miss F provided related to normal maintenance.*

*Having said that, BMWFS did offer to refund some monthly payments and other costs, in recognition of the distress and inconvenience caused to Miss F. But as I noted above, Miss F wasn't happy with this.*

*I've thought carefully about BMWFS's comments. With no information about the previous owners(s) of the car, it's impossible to say whether their driving style or pattern of usage might have affected the lifespan of the turbocharger and timing chain. But I've no evidence to indicate that Miss F has caused or contributed to these failures, and indeed she has had the car serviced regularly and her mileage in the car has not been excessive. Nothing she has said about her usage of the car suggests a driving pattern that is out of the ordinary. So I don't have evidence suggesting a reason for the turbocharger and timing chain failing so prematurely. I also don't have details of what would've been checked during a service, so I can't say whether signs of the failure of the components ought reasonably to have been spotted earlier.*

*Taking all this into account, I'm not satisfied that the components that failed were appropriately durable. Therefore, on balance, I don't think the car was of satisfactory quality at the point of supply, and as a result I'm proposing to uphold Miss F's complaint and to require BMWFS to compensate Miss F for the repair costs and other costs incurred.*

*I think it would be fair for BMWFS to refund the cost of the repairs. I accept that the invoice provided by Miss F included items that can reasonably be classed as maintenance, namely the battery, tyres, a repair to the car horn and an MOT. The cost of those items was £540, so I think BMWFS should refund £4,519.87, being the total amount on the invoice of £5,059.87 minus £540.*

*Miss F wasn't able to use the car from November 2023 to May 2024, so BMWFS should also refund the monthly payments for this period. Miss F also had to pay the costs of collection and diagnostic tests when the car broke down, so I think it fair for BMWFS to refund these.*

*Given the impact on Miss F, I also consider a payment of £300, in recognition of the distress and inconvenience caused, to be a fair amount."*

As I noted above, Miss F said she agreed with my provisional decision, and BMWFS did not respond. As no new evidence or information has been provided, I have no reason to change my conclusions. Therefore I uphold Miss F's complaint.

### **Putting things right**

BMWFS should:

- refund the cost of the repairs, this being £4,519.87.
- refund £350, being the cost of having the car collected and taken for repair.
- refund £756, being the cost of the diagnostic checks.
- refund the monthly payments Miss F made during the period from November 2023 to May 2024 inclusive.
- pay 8% simple yearly interest\* on all refunded amounts from the date Miss F paid them until the date of settlement.
- pay a further amount of £300 in recognition of the distress and inconvenience that has been caused to Miss F.
- remove any adverse information from Miss F's credit file in relation to the agreement (if any has been added).

\*If BMWFS considers that it is required by HM Revenue & Customs to withhold income tax from that interest, it should tell Miss F how much it's taken off. It should also give Miss F a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

**My final decision**

For the reasons given above, I have decided to uphold Miss F's complaint and to require BMW Financial Services (GB) Limited to compensate her as described above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss F to accept or reject my decision before 17 July 2025.

Jan Ferrari  
**Ombudsman**