

## **The complaint**

Mr O complains about the quality of a car supplied to him by BMW Financial Services (GB) Limited trading as ALPHERA Financial Services ("Alphera").

## **What happened**

Mr O acquired a used car through a hire purchase agreement with Alphera in June 2024. The price was around £13,500, and the car was around 7 years old and had covered around 74,000 miles at the point of supply.

He's told us he had various issues with tyres, brakes and discs and the heating system in the first few months, and by November 2024 was having further problems. He took the car to a garage in November 2024 who diagnosed faults with the ECU and accelerator pedal which they believed were caused by a further problem they found with water ingress. They said they couldn't find where the water was getting in, however. The mileage at this point was noted as 76,569.

Mr O attempted to resolve things with the dealership who supplied the car but has told us he wasn't having any success, so in he raised a complaint at this point with Alphera on 21 November 2024, and they instructed an independent engineer to assess the car, which happened in January 2025. They confirmed that there were problems with the ECU possibly due to a wiring harness fault and the car wasn't drivable. They said these would require further investigation and repairs. They then said in their opinion, the faults have developed with use and wouldn't have been present when the car was supplied. There was little mention of water ingress. They noted the mileage at the time of the inspection was 76,577, so the car has covered around 2,500 miles since supply.

On this basis, Alphera issued their final response letter to Mr O's complaint and did not uphold it saying the issues wouldn't be present or developing at point of sale. Mr O brought his complaint to our service in January 2025, and it was investigated. The investigator didn't uphold it, saying that the independent engineer conclusion that the fault wasn't likely to be present when the car was supplied was persuasive, and the car had covered over 70,000 miles when supplied, so if a seal or similar had deteriorated and was letting water in, it was likely due to normal wear and tear. They didn't uphold the complaint. Mr O didn't agree with this and asked for an Ombudsman to make a final decision, so the case has been passed to me.

I issued a provisional decision on 14 June 2025, which was 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've reached a different provisional conclusion to the investigator, and I will explain my reasons below. 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 – what I think is most likely to have happened given the available evidence and wider circumstances.*

*In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Mr O was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we're able to investigate complaints about it.*

*The Consumer Rights Act 2015 ('CRA') says, amongst other things, that the car should've been of a satisfactory quality when supplied. And if it wasn't, as the supplier of goods, Alphera are responsible. What's satisfactory is determined by things such as what a reasonable person would consider satisfactory given the price, description, and other relevant circumstances. In a case like this, this would include things like the age and mileage at the time of sale, and the vehicle's history and its durability. Durability means that the components of the car must last a reasonable amount of time.*

*The CRA also implies that goods must conform to contract within the first six months. So, where a fault is identified within the first six months, it's assumed the fault was present when the car was supplied, unless Alphera can show otherwise. But, where a fault is identified after the first six months, the CRA implies that it's for Mr O to show it was present when the car was supplied.*

*So, if I thought the car was faulty when Mr O took possession of it, or that the car wasn't sufficiently durable, and this made the car not of a satisfactory quality, it'd be fair and reasonable to ask Alphera to put this right.*

*There are three key issues here which Alphera haven't addressed in their investigation. The first is mentioned above, the fact that under the CRA, if a fault is identified within the first six months, it is assumed that the fault was present or developing when the car was supplied, unless Alphera can show otherwise.*

*In this instance, the faults have been reported in November 2024, well inside the six months. The independent engineer who inspected the car has said they feel the faults would not have been developing when the car was supplied but haven't provided any detail as to why they think this. Alphera in their FRL have also not commented as to why they believe these issues wouldn't have been present or developing when the car was supplied. The CRA says that inside six months, it is assumed the faults were present or developing at the point of sale, unless Alphera can show otherwise. I'm not persuaded that Alphera have shown why the issues weren't present or developing at the point of sale.*

*The second issue is the reported water ingress. This is the cause of the electrical problems according to the initial assessment carried out by an independent garage for Mr O. The independent engineer has noted at the beginning of their report that this was one of the issues raised by the consumer for them to look at but has made no comment about it in the report other than to say he couldn't visually see anything or any external damage that may have led to it.*

*Alongside this, the investigator here has said they feel that water ingress can be a result of normal wear and tear on the seals or similar. I don't agree with this. Mechanical issues with a used car need to be assessed to consider what a reasonable person would consider to be the normal lifespan is of a part. But with regards to keeping water out, I am satisfied that a reasonable person would expect that a used car should be watertight for most if not all of its lifetime. I've seen no evidence from any party as to how water may have got into the car to*

damage the electrics, and as such, under the CRA as this has happened inside the first six months, it's fair to assume that if there has been water ingress, this issue has been present or developing since the car was supplied to Mr O.

The third issue is durability. This hasn't been mentioned by any party. As described above, the CRA says that durability means that the components of the car must last a reasonable amount of time. With regards to the seals and other parts of a car designed to keep it watertight, I think a reasonable person would expect that they would prevent water getting into the car for a considerable amount of time, if not the lifetime of the car. These issues have developed inside the first six months that the car has been supplied, and alongside this, the mileage covered by Mr O has been less than 3000 miles. I'm not persuaded that this would be fair wear and tear, and without any other evidence provided as to how water could have got into the car, I am satisfied that Alphera as the supplier of the vehicle are responsible for these problems.

Even if we ignore the likelihood that water ingress has led to the electrical problems, the problems with the ECR and the electrics were present inside the first six months of the car being supplied. The independent garage Mr O took the car to has said these were caused by water ingress. The independent engineer appointed by Alphera has made no comment as to how the electrical problems have occurred, and said he's seen no signs of water ingress. But I've seen no evidence as to why Alphera aren't responsible for these electrical issues as per the CRA, so whether they have been caused by water ingress, or something else, I am satisfied that the electrical issues make the car of unsatisfactory quality, and Alphera as the supplier are responsible for this as they occurred inside the first six months.

Mr O has raised concerns with brakes and discs, and also tyres, but I have no concerns with these issues. These are wear and tear parts and have worn out since the car was supplied and needed repair or replacement.

I've gone on to think about how Alphera should put things right here. I'm not persuaded that it would be fair now for them to try to repair the car, as it has already been six months since Mr O raised his concerns, and having had his complaint declined, Mr O has been trying to fund repairs without much success so far. Alongside this, the car has been off the road. There is the potential that with the car not having been used for six months, further problems may have developed, and I also feel that Mr O would likely have lost his faith in the vehicle after these problems. I am satisfied that a fair remedy here is for Mr O to be able to reject the car therefore and for his agreement to be ended.

The car has been off the road since November 2024 when these issues were identified, so it would be fair for Mr O to be refunded any monthly payments made since 19 November 2024 when his independent garage looked at the car and diagnosed the problems.

Alphera can keep his payments made up to this point to recognise he has had some fair usage of the car. I also think Mr O has suffered distress and inconvenience after being supplied with a faulty car. He has now had a car that he can't drive for six months, and I know it has caused him some financial stress. I think a distress and inconvenience payment of £350 recognises this.

I've also noted that Mr O has had a manufacturer garage looking at the car for him more recently, and they have attempted some repairs, although they don't appear to have been successful in fixing the car. I've seen the invoice for the work done, and he has spent £1260 trying to fix the car. I've asked him not to spend anything further while this complaint is decided, but I think having been told his complaint wasn't being upheld by Alphera, I can understand why he would feel he needed to try to get the car repaired, as he has been left

*making payments for it, with no use from the car. So, I think Alpheria should refund these repair costs to him.*

*To put things right, I intend to ask Alpheria to do the following:*

- *End the agreement with no further payments for Mr O to pay.*
- *Collect the car at no cost to Mr O*
- *Refund Mr O his deposit paid for this agreement (which I believe was £3,000)*
- *Refund Mr O any monthly payments made since 19 November 2024 until the agreement is ended*
- *Refund Mr O £1260 for the repairs he has attempted on his production of the invoice/proof of payment.*
- *Pay 8% simple yearly interest on all the refunds above from the date of payment by Mr O to the date of settlement.*
- *Pay Mr O £350 to compensate him for the distress and inconvenience caused by the supply of a faulty car.*
- *Remove any adverse entries relating to this agreement from Mr O's credit file*

*If HMRC require Alpheria to take tax off from any interest payment, Alpheria should give Mr O a certificate showing how much tax they've taken off if he asks for one.*

*My provisional decision is to uphold this complaint.*

### **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.

Mr O came back to us to accept my provisional decision. Alpheria have not responded. As the deadline for comments/further evidence has now passed, I see no reason to alter my provisional decision, so am upholding the complaint.

### **Putting things right**

To put things right, I instruct Alpheria to do the following:

- End the agreement with no further payments for Mr O to pay.
- Collect the car at no cost to Mr O.
- Refund Mr O his deposit paid for this agreement.
- Refund Mr O any monthly payments made since 19 November 2024 until the agreement is ended.
- Refund Mr O £1260 for the repairs he has attempted on his production of the invoice/proof of payment.
- Pay 8% simple yearly interest on all the refunds above from the date of payment by Mr O to the date of settlement.
- Pay Mr O £350 to compensate him for the distress and inconvenience caused by the supply of a faulty car.
- Remove any adverse entries relating to this agreement from Mr O's credit file.

If HMRC require Alpheria to take tax off from any interest payment, Alpheria should give Mr O a certificate showing how much tax they've taken off if he asks for one.

**My final decision**

I uphold this complaint and instruct BMW Financial Services (GB) Limited trading as ALPHERA Financial Services (“Alphera” ) to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr O to accept or reject my decision before 28 July 2025.

Paul Cronin  
**Ombudsman**