

## The complaint

Mr H complains about the way BMW FINANCIAL SERVICES (GB) LIMITED trading as BMW Financial Services dealt with a request to change the mileage allowance on his hire purchase agreement.

## What happened

In July 2022, Mr H was supplied with a used car through a hire purchase agreement with BMW. The cash price of the car was £24,190. He made an advance payment of £1,000 and the agreement was for £23,190 over 48 months; with 47 monthly payments of £416.31 and an optional final payment of £10,847.97. At the time, an annual allowance of 8,000 miles was agreed.

In May 2024, Mr H contacted BMW about the agreement. He said he'd exceeded the mileage allowance so wanted to discuss his options surrounding this. BMW agreed to add an additional 12,000 miles to the total allowance by increasing the monthly cost, and put in place a new agreement to reflect this. The new agreement was for £17,468.46 to be repaid over 24 months; with 23 monthly payments of £445.12 and an optional final payment of £10,111.97. The new agreement started the following month.

In November 2024, Mr H contacted BMW to ask about voluntarily terminating the agreement. He was told that he was only a few months into his new agreement, so wasn't yet approaching the halfway point required to voluntarily terminate it. BMW said he needed to have paid a total of £10,174.87 of the new agreement's balance before he could terminate it.

Mr H made a complaint. He said he made clear to BMW that he wanted to end the agreement as soon as possible, and that he wasn't told increasing the mileage allowance would result in a new agreement or that his termination rights would be affected. He said neither agreement was suitable for him – and that he only took a low mileage allowance to begin with because he was encouraged to by the selling agent. He wanted to be allowed to voluntarily terminate the agreement under the original terms before the mileage change.

BMW didn't agree it had made an error and said he signed the new agreement to accept its terms, which explained the process for terminating it early. It offered Mr H £75 for some delays in responding to the complaint. The complaint was referred to this service and was considered by one of our Investigators. They didn't think there was enough evidence to suggest BMW had made an error during the sale of either agreement, and was satisfied it had correctly explained things to Mr H.

Mr H didn't accept the Investigator's conclusions. He said he made clear to BMW over the phone that his priority was to exit the agreement as soon as possible. He said he should have been allowed to change the mileage without entering a new agreement. He asked for the complaint to be referred to an Ombudsman for a final decision. So, it's been passed to me to decide.

## 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, I've reached the same overall outcome as our Investigator for broadly the same reasons. 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 decision on the balance of probabilities – what I think is more likely than not 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 H was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means I can consider a complaint about it.

Mr H has complained about the sale of both the original agreement and the mileage increase. I've considered and addressed each of these in turn.

### *The original agreement*

Section 56 of the Consumer Credit Act 1974 (CCA) outlines that finance providers such as BMW can be held liable for what's said by a credit broker or supplier before an agreement is taken out. I've taken this into account when considering the complaint.

Mr H says that when choosing the car, he set a monthly budget of around £420. He expected to drive around 12,000 miles per year – but the quotes for this were out of his budget. He says he was encouraged by the dealership to choose a lower annual mileage to bring the monthly cost down – on the basis that he could increase it if needed and that he wouldn't incur an excess mileage charge if he chose to part-exchange the car.

He's provided an email from the dealership dated 2 July 2022 stating:

*"I can confirm that if we set your agreement on 8,000 miles a year you would only ever pay the excess per mile charge if you were handing the car to the finance company themselves.*

*If you are over your mileage when you part exchange your car you will not be charged the excess mileage."*

To conclude that the agreement had been misrepresented to Mr H, I'd first need to be satisfied that:

1. A false statement of fact has been made; and
2. That false statement induced Mr H to enter into the agreement.

I think the crux of Mr H's concern is that the dealership misled him into taking out an agreement with a lower mileage allowance than he needed and that – if this hadn't happened – he wouldn't have later needed to increase that allowance and could have terminated the agreement earlier.

The email Mr H has provided includes information about what circumstances Mr H would – and wouldn't – incur an excess mileage charge if he exceeded the mileage allowance. The information in the email appears to be correct in line with the agreement terms, and I can't see that there was any false statement of fact. The agreement signed by Mr H also outlines

details of the mileage allowance and charge. I haven't seen any other evidence to persuade me there was a misrepresentation or that that Mr H was misled into taking an agreement with a low mileage allowance.

Mr H says he wasn't warned that increasing the mileage allowance later could impact his rights to terminate it – which was a potential consequence of setting a low allowance. But I wouldn't expect a sales agent to go through every possible circumstance unless it was asked about – and Mr H hasn't suggested that he asked about voluntarily terminating the original agreement before it started. I can't see that any incorrect or misleading information was given to Mr H. So, I'm not persuaded that the original agreement was mis-sold or that there was a misrepresentation.

### *The mileage increase*

Mr H says he was given misleading information when he asked about increasing his mileage allowance, which resulted in a new agreement being taken without his knowledge. He says he wasn't aware this would affect his right to terminate the agreement.

BMW has a responsibility to ensure it provides customers with clear information to support them in being able to make informed decisions about achieving their financial objectives. I've considered whether BMW met its obligations here, and whether it treated Mr H fairly when processing his request to increase his mileage allowance.

Mr H called on 15 May 2024 and spoke to two agents – and I've listened to these calls. When speaking to the first agent, Mr H explained that – while the mileage allowance on the agreement was suitable at the time – he had now exceeded it so needed to discuss his options. He said he wanted to add 12,000 miles to the overall mileage allowance – or alternatively return the car. The agent explained he could increase the mileage, but this would require setting up a brand-new agreement with the updated allowance. They went on to explain that alternatively Mr H could sell or part-exchange the car – which could leave a shortfall on the agreement – or pay to voluntarily terminate it and incur an excess mileage charge.

A sales agent called Mr H back the same day to discuss his options in more detail. They explained that increasing the mileage would likely be beneficial if Mr H was planning to hand the car back at the end of the agreement – but not if he planned to part exchange or purchase it as he wouldn't incur a mileage charge in that situation. Mr H said he didn't intend to keep the car – and that he was considering selling it back to the dealership to settle the agreement early if increasing the mileage wasn't an option. The agent explained that a new application would need to be sent to BMW's underwriters if Mr H chose to increase the mileage.

The agent generated a quote for a new agreement. They said *“Your current agreement will end, we'll start you on a brand-new agreement. You'd have a new agreement number (...) for the new amount.”*

Mr H asked how he would be affected if he later decided to hand the car back. The agent said *“It won't affect your option to settle it early ie part exchange it. The only thing that does get affected is your voluntary termination rights. Are you aware of those?”*

The agent went on to explain how voluntary termination works, and that under his current agreement Mr H would need to make around 14 more payments before this was an option. Mr H said he'd consider his options and call back – as he was still considering selling the car back to the dealership.

Mr H called a few weeks later to go ahead with the proposed mileage change. He was sent a new agreement to sign, which included the details of the new repayment schedule and mileage allowance along with the following wording:

***“Termination: Your Rights***

*You have a right to end this agreement. To do so, you should write to the person you make your payments to. They will then be entitled to the return of the goods and to half the total amount payable under this agreement, that is £10,174.87. If you have already paid at least this amount plus any overdue instalments and have taken reasonable care of the goods, you will not have to pay any more.”*

After the new agreement was signed, BMW sent a letter of discharge confirming that the original agreement was settled and that Mr H no longer had any obligations under it.

Considering the above, I'm satisfied Mr H was made reasonably aware that increasing the mileage allowance would mean ending his original agreement and taking out a new one under the amended terms. This was explained to Mr H over the phone, and he was made aware in writing that his original agreement had come to an end.

Mr H says he made clear to BMW that his priority was to return the car and end the agreement as soon as possible – so a new agreement wasn't suitable for him. I agree that during the call he mentioned the possibility of ending the agreement early. But this was just one of the options he said he was considering. While he said he might decide to sell or part exchange the car, he didn't suggest that his preference was to voluntarily terminate the agreement.

From listening to the calls, I think it's reasonably clear that Mr H's main priority was ensuring that he didn't incur an excess mileage charge. During the second call, the agent told Mr H that increasing his mileage would affect his voluntary termination rights, and he was given the opportunity to ask about this if he didn't understand. I haven't seen any records or evidence from either Mr H or BMW to suggest that he asked about voluntarily terminating the agreement before 15 May 2024.

Mr H said he planned to hand the car back and wanted to purchase a new one – but has now had to postpone this. But even before the second agreement was put in place, Mr H was still more than a year away from being able to voluntarily terminate. So, even if Mr H wanted to voluntarily terminate, he wouldn't have been able to do so at the time unless he paid the remaining required balance to reach the agreement's halfway point.

For these reasons, I'm not persuaded that BMW made an error when processing Mr H's requested mileage adjustment. I'm satisfied it gave him enough information to make an informed decision, and that it made clear that adjusting his mileage allowance would result in a new agreement which would impact his right to voluntarily terminate.

While I appreciate this will come as a disappointment to Mr H, I don't think BMW made an error when processing his requested mileage increase or that either of his agreements were mis-sold. So, I don't require it to do anything further. BMW has already made an offer to pay Mr H £75 to settle the complaint. Mr H should contact BMW directly if he now wants to accept this offer, if he hasn't already.

**My final decision**

My final decision is that I don't uphold Mr H's complaint about BMW FINANCIAL SERVICES (GB) LIMITED trading as BMW Financial Services. I don't require the business to do anything to settle the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 31 December 2025.

Stephen Billings  
**Ombudsman**