

The complaint

Miss T complains that a car acquired under a hire purchase agreement with BMW Financial Services(GB) Limited trading as Alphera Financial Services ("Alphera") was misrepresented to her.

What happened

The parties are familiar with the background of this complaint so I will only summarise what happened briefly here.

In May 2024, Miss T entered into an agreement to acquire a used car from a dealership (S). She had seen the car advertised online, including its features. She paid a deposit, with the balance of the purchase being provided by Alphera under a hire purchase agreement. The car was three years old and had covered approximately 47,500 miles when the agreement started. The agreement was for 48 months with monthly repayments of £350.86, and the cash price of the car was £19,500.

A couple of weeks after taking delivery of the car, Miss T noticed the battery light was illuminated. She thought the car would charge itself, but it didn't and subsequently broke down. She had it towed to a garage.

Miss T then spoke to S about the car, and it was confirmed the car needed to be plugged in to receive the full battery charge. Miss T wasn't happy with this, as she said she'd asked for a self-charging car and wasn't informed by S that the car would need to be plugged in to charge when she acquired it. She didn't have the facilities at home to charge the car.

Miss T complained to Alphera as she felt the car had been mis-sold to her. They didn't uphold her complaint. They confirmed to Miss T that she had been told the car had self-charging capabilities, and the car did have this capability. As such, Alphera said the car hadn't been mis-sold to her.

Miss T brought her complaint to our service. Our investigator upheld it. She said she was satisfied Miss T had been mis-sold the car, and the information about needed to plug the car in to charge it hadn't been made clear. She said Miss T could reject the car, and Alphera should arrange to collect it from her. She said Alphera could keep some of Miss T's monthly payments for her use of the car but should refund her deposit and reimburse her for some additional travel expenses she'd incurred.

Miss T accepted but Alphera didn't. They maintained the car hadn't been misrepresented to Miss T when it was supplied, as it was confirmed the car had self-charging capabilities, which it does. They also said that Miss T had sourced the car herself and had confirmed she was aware the advert for the car described it as a plug-in hybrid.

As Alphera didn't agree, the complaint was passed to me to decide. I issued a provisional decision on 8 July 2025. It said:

'I've considered all the available evidence and arguments to decide what's fair and

reasonable in the circumstances of this complaint.

When considering what is fair and reasonable, I'm required to take into account: relevant law and regulations, relevant regulatory rules, guidance and standards and codes of practice.

The fact the car was supplied to Miss T under a hire purchase agreement means that the credit provider, Alphera in this case, has responsibility for things that were said or done by S prior to Miss T's entry into the agreement.

I think it's worth starting by explaining that I'm only looking at Alphera's responsibility here as the finance provider for the car. Miss T has voiced concerns about S and has been engaged in a lot of conversation with them post-sale – but at that time S weren't acting as agents of Alphera, and Alphera can't be held responsible for anything S have said or done post-sale.

As the hire purchase agreement is a regulated consumer credit agreement this service is able to consider complaints relating to it.

Miss T has said that the car had been misrepresented to her. In order for me to decide that I need to answer two questions:

- Has a false statement of fact been made? And*
- Has this false statement induced Miss T to acquire the car?*

It's only if I can answer 'yes' to both of these questions that I can decide the car was misrepresented at the point of supply. And in Miss T's case, I'm not persuaded I can answer 'yes' to the first question. This means that I'm not planning to say the car was misrepresented to her at the point of supply. I'll explain why.

False statement of fact

Miss T has confirmed she saw the car advertised herself online, and that it was classified as a plug-in hybrid. She has said she went to see the car and asked S at this point if the car had to be plugged in to charge, as she didn't want a car that needed to be plugged in. She wanted a car that would self-charge while she was driving.

S has confirmed that Miss T was told that the car had self-charging capabilities. Miss T hasn't denied this statement was made – and I can't say the statement is a false statement of fact. The car does have self-charging capabilities. It will generate some self-charge through its regenerative braking system.

When the evidence is incomplete, inconclusive, or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

S are a manufacturer approved dealership. The manufacturer in question do not manufacture any self-charging cars, and this car was advertised as a plug-in hybrid. When I consider all the evidence in this case, I'm more satisfied than not that there's been a misunderstanding rather than a misrepresentation. I think it's more likely than not that S explained the car had self-charging capabilities, and Miss T has taken that statement to mean she wouldn't need to plug the car in to charge.

But a misunderstanding, or some confusion as to the features of the car, doesn't amount to a misrepresentation. I haven't seen any evidence, other than Miss T's testimony, which would suggest S told Miss T she wouldn't have to plug the car in. There isn't anything contained in the information from Alphera that suggests Miss T was told she wouldn't have to plug the car

in to benefit from the full battery charge. She did also have the option of using fuel as an alternative to plugging the car in. In this case, I'm not persuaded I have conclusive evidence of a false statement of fact being made.

As I'm not persuaded I can answer 'yes' to this question, I haven't considered the second question.

Our investigator has also mentioned that the car had been mis-described. However, Miss T has confirmed the car was advertised as a plug-in hybrid, and the car is a plug-in hybrid. So, it follows that I'm not persuaded the car doesn't meet its description in this case.

I know this decision is likely to come as a disappointment to Miss T and she's been paying for a car that she isn't using, and which isn't suitable for her needs. However, I can only ask Alphera to do something to put things right if I'm persuaded something has gone wrong – and in this case I'm not satisfied I have conclusive evidence to confirm a misrepresentation has taken place.'

Miss T responded. She said that S told her she would be able to use the car without plugging it in, and this is why she went ahead with the agreement. She also confirmed that, if she could use the car as a petrol engine only, she would have been happy to keep it. But the car wasn't functioning in that way and was requiring the battery to be charged all the time, rather than allowing the car to be driven using the fuel in it only. She explained that she had returned the car to S in July 2024, and it had remained with them ever since.

Alphera also responded and accepted the findings of 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.

Having done so, I see no reason to depart from the findings of my provisional decision. I'll explain why.

My provisional decision explained why I didn't think S had misrepresented the car to Miss T. The car has self-charging capabilities, which I'm more satisfied than not Miss T was made aware of.

She has mentioned that S also told her the car would be able to be used without being plugged in, as it was a hybrid and had the option of being driven using the electric option through the battery, or as a standard fuel-operated car. I'm not persuaded that is an incorrect statement of fact from S in this case, as the car should be able to be driven through the electric source of the battery or through the fuel option, dependant on the type of journeys Miss T is planning to take in it. As I'm not persuaded S have misled Miss T in this regard, I remain satisfied that the car wasn't mis-represented to her.

However, Miss T has suggested this wasn't the case in the car, and it was using up all the electrical charge in the battery without allowing for the option to switch to fuel-operated, and the car had stopped mid-journey because of it.

This might be because the car has a fault. But that is a different issue to the one I am deciding on about the misrepresentation of the car. If Miss T believes the car is faulty, she will need to speak to Alphera about it, as the supplier of the car, and arrange for them to decide on any next steps. She may be able to bring a new complaint to our service if she's unhappy with Alphera's response.

As I said in my provisional decision, I know this decision will come as a disappointment to Miss T. She has said that she returned the car to S in July 2024, and it remains with them. It's for Miss T and Alpera to decide the appropriate next steps here, but I won't be asking Alpera to do anything more in regard the specifics of this complaint.

My final decision

For the reasons above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss T to accept or reject my decision before 20 August 2025.

Kevin Parmenter
Ombudsman