

The complaint

Mr A complains that a car acquired under a hire purchase agreement with BMW Financial Services (GB) Limited trading as Alpheria Financial Services (“Alpheria”) wasn’t of satisfactory quality when it was supplied to him.

What happened

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

In October 2022, Mr A entered into an agreement to acquire a used car from a dealership (P). He paid a deposit for the car, with the balance being provided under a hire purchase agreement with Alpheria. The car was four years old and had covered approximately 47,000 miles when the agreement started. The agreement was for 48 months, with monthly repayments of £1,116.72 and an optional purchase payment due at the end of the agreement if Mr A wanted to keep the car. The cash price of the car was £74,995.

Mr A has said that the car was making a clicking noise within the first 30 days, but the noise was intermittent, and P couldn’t determine any fault. However, P did take the car back in November 2022 for a gearbox issue.

In January 2023 Mr A was continuing to experience problems with the car, and he arranged for an inspection to be done. This report showed faults with the rear differential, catalytic converter, the front suspension was making a cracking noise, the heated seats and the brake light switch being faulty. It also identified that the car was displaying intermittent warning lights. Mr A’s warranty undertook the repairs, other than the rear differential fault, and P agreed to cover the cost of that.

However, the car continued to display faults once Mr A had collected it. It went back to P in April 2024 and May 2024. Some of the faults at this time were considered wear and tear – such as screen washer issues and wiper blades being split – but on both occasions the rear differential was found to be leaking. There was also an ongoing problem with one of the sidiesteps for the car, which took ten months to be repaired.

Mr A complained to Alpheria in September 2024. They upheld his complaint in regard to how long he’d been without the car and offered to refund him 25% of three payments he’d made whilst being without the car, along with £150 compensation.

Mr A didn’t accept this and brought his complaint to our service. Our investigator upheld it and said that Mr A should be able to reject the car. He said Alpheria should refund 15% of all the monthly payments Mr A had made, and also pay £600 compensation to reflect the distress caused by having a car of unsatisfactory quality.

Mr A accepted but Alpheria didn’t. They wanted Mr A to agree to an independent inspection, as Alpheria felt many of the faults had been caused by Mr A having an immobiliser fitted to the car for additional security.

As Alphera didn't agree, the complaint has 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.

Both parties have provided a lot of information here. I'd like to reassure them that I've read and considered everything that's been sent, although I haven't commented on it all within this decision. I will be focussing on what I consider to be the key points 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.

As the hire purchase agreement entered by Mr A is a regulated consumer credit agreement this service is able to consider complaints relating to it. Alphera are also the supplier of the goods under this type of agreement and are responsible for a complaint about their quality.

The Consumer Rights Act 2015 (CRA) covers agreements like the one Mr A entered. Because Alphera supplied the car under a hire purchase agreement, there's an implied term that it is of satisfactory quality at the point of supply. Cars are of satisfactory quality if they are of a standard that a reasonable person would find acceptable, taking into account factors such as – amongst other things – the age and mileage of the car and the price paid.

The CRA also says that the quality of the goods includes their general state and condition, and other things like their fitness for purpose, appearance and finish, freedom from minor defects and safety can be aspects of the quality of the goods.

Satisfactory quality also covers durability. For cars, this means the components must last a reasonable amount of time. Of course, durability will depend on various factors. In Mr A's case, the car was used and had covered approximately 47,000 miles when he acquired it. So, I'd have different expectations of it compared to a brand-new car. Having said that, the car's condition should have met the standard a reasonable person would consider satisfactory, given its age, mileage, and price.

Our investigator has explained that he thinks the car wasn't of satisfactory quality when it was supplied to Mr A. I agree in this case. There is no doubt the car has had several faults and continues to have them – the evidence provided confirms that. And I'm more persuaded than not, from what I've seen, that car wasn't of satisfactory quality from the point Mr A was supplied with it. I'll explain why.

The CRA explains that where goods are found not to have conformed to the contract within the first six months, it is presumed the goods did not conform to the contract at the point of supply. Unless the supplier, Alphera in this case, can prove otherwise. However, Mr A brought the problems with the car to Alphera's attention in September 2024, almost two years after he'd been supplied with it. As this was outside of six months it was for Mr A to show any faults with the car had been present at the point of supply.

I'm satisfied Mr A has demonstrated that at least some of the faults seen with the car in January 2023 were present or developing at the point of supply, and that P were also in agreement with this. Mr A's inspection report in January 2023 confirmed a problem with the rear differential, amongst other problems with the car. Mr A had covered approximately 4,000 miles in the car at this point. The warranty company refused to undertake the repairs to the rear differential as it was discovered that P hadn't carried out a proper service on the part prior to Mr A being supplied with the car – and P agreed to cover the costs of the repair

because of this. I'm satisfied that's an acceptance that the fault with the rear differential would have been present or developing when Mr A was supplied with the car.

The car then presented a lot more faults over the coming months that needed repairing. I've seen the job cards and inspection reports for those repairs. Specifically, in April 2024 and May 2024 there was a fault with the rear differential again, in that it was leaking.

The CRA allows for one opportunity to repair the car, and I'm persuaded, from the evidence provided, that more than one attempt has taken place here. The car has been back to P on several occasions to be repaired – both electrical and mechanical faults – including more than one attempt to repair the rear differential.

I appreciate Mr A didn't bring the faults to Alphera's attention until September 2024 and the car had undergone repairs on numerous occasions before that, but I don't think that has prejudiced Alphera's position in this case. I'm satisfied they would have recommended Mr A take the car back to P had they been aware of the faults earlier, as P were the supplying dealer and were also responsible for providing the warranty and undertaking the repairs. And as the car has had more than one attempt to repair it, I'm satisfied that it wasn't of satisfactory quality when it was supplied to Mr A.

Alphera have asked Mr A to allow an independent inspection to take place now, as they believe many of the faults are linked to the work he had done to have an immobiliser fitted to the car. But I'm not persuaded that's a conclusion I can reach in this case, nor do I think it's reasonable to ask Mr A to agree to an independent inspection now due to the length of time Alphera have been aware of this complaint. The car has failed mechanically and electrically, with many of the same faults being seen after repair, and I haven't seen anything that would suggest the fitting of the immobiliser could be responsible for this. Further, if Alphera had this concern they could have discussed this with Mr A when he brought his complaint to them in September 2024, but they didn't – and I don't think it's reasonable to ask him to consent to an independent inspection now, ten months after responding to his complaint.

The CRA sets out that (outside the first 30 days) if the car isn't of satisfactory quality, there's been a repair attempt, and the car still doesn't conform to the contract, Mr A should be able to reject it. Alphera should take the car back without charging Mr A for collection and end the agreement, ensuring no more monthly payments are taken from him.

Mr A has had use of the car since being supplied with it, but that use has been impaired at times while the car has been experiencing multiple issues. And he has had the use of courtesy cars for a lot of the time his car was off the road being repaired – although not all of the courtesy cars were a like-for-like replacement, and he had a period of three weeks without one. It was reasonable for Mr A to be kept mobile while his car was being repaired, but he had committed a lot of money each month to enjoy the car he'd entered into the agreement for, and I'm satisfied he would have experienced a loss of enjoyment from the car as a result of the constant problems with it. Our investigator has recommended Mr A should receive back 15% of all the monthly payments he's made to Alphera under the agreement, to reflect the impaired use of the car as well as the impact not always having a courtesy car, or a like-for-like replacement will have had on him. I'm satisfied that's a reasonable resolution to reflect this aspect of Mr A's complaint.

Mr A has explained in some detail the impact on him and his day-to-day life having a car with so many faults has caused to him – not just a physical impact, but mentally and financially too. I think Mr A has suffered more here than the usual problems you might expect in everyday life.

No amount of money can change what's happened. But the compensation I'm awarding is in line with what's awarded where the impact of the mistake has caused considerable distress, upset and worry – and/or significant inconvenience that needs a lot of extra effort to sort out. I'm awarding Mr A £600 to reflect the distress he's been caused by being supplied with a car that wasn't of satisfactory quality.

I know it's been a difficult time for Mr A. I hope this decision goes some way to allowing him to move forward now.

My final decision

For the reasons above, I uphold this complaint. BMW Financial Services (GB) Limited trading as Alphera Financial Services must:

- end the finance agreement ensuring Mr A isn't liable for any monthly rentals after the point of collection (they should refund Mr A any overpayment for these if applicable).
- take the car back without charging Mr A for collection.
- refund Mr A's deposit/part exchange contribution of £1,000.
- refund Mr A 15% of each monthly repayment he's made, from the date of the agreement starting until the date of settlement, to reflect any loss of, or impaired use, he's had of the car.
- pay 8% simple interest on all refunded amounts, from the date they were paid until the date of settlement.*
- pay Mr A £600 to reflect the stress he's been caused by being supplied with a car of unsatisfactory quality.
- remove any adverse information from Mr A's credit file, in relation to this agreement.

*If BMW Financial Services (GB) Limited trading as Alphera Financial Services consider that they're required by HM Revenue & Customs to deduct income tax from that interest, they should tell Mr A how much they've taken off. They should also give Mr A a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 22 August 2025.

Kevin Parmenter
Ombudsman