

## **The complaint**

Mr S is unhappy that a car supplied to him under a hire purchase agreement with BMW Financial Services (GB) Limited trading as MINI Financial Services (BMWFS) was of an unsatisfactory quality.

When I refer to what Mr S or BMWFS have said or done, it should also be taken to include things said or done on their behalf.

## **What happened**

In April 2024, Mr S was supplied with a brand-new car through a hire purchase agreement with BMWFS. The cash price of the car was £29,530.80 and he paid a deposit of £3,850. The amount of credit was for £25,680.80 and the duration of the agreement was 48 months; with 47 monthly payments of £358.14 and an optional final payment of £13,381.98 to purchase the car.

In July 2024, the car was returned to the supplying dealership due to a heater box defect, which they repaired in August 2024. When the car was returned to Mr S, there was new damage to the dashboard and a new rattling noise. It seems the dashboard was repaired but the rattle persisted, and after multiple failed repairs, Mr S asked to reject the car.

BMWFS offered to replace the car with one of a higher specification, but Mr S declined this as it required him to increase his monthly payments. BMWFS later agreed to settle the agreement and return Mr S' deposit, but Mr S thought he should also receive a refund of the payments he made towards the agreement. Mr S says both offers were later withdrawn.

Our Investigator reviewed matters and thought the complaint should be upheld. In summary, they were satisfied the car was of unsatisfactory quality when supplied and remained defective after repairs. They said BMWFS should accept rejection, refund Mr S' deposit and pay him £250 compensation for the distress and inconvenience caused.

Mr S accepted the Investigator's recommendation, but BMWFS didn't reply. They later responded reiterating the previous offers made to Mr S but didn't provide any further comments or submissions for consideration.

As no agreement has been reached, the matter 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.

Having done so, I've reached the same outcome as the Investigator, for broadly the same reasons.

I think it's important to firstly explain I've read and taken into account all of the information provided by both parties, in reaching my decision. If I've not reflected something that's been

said it's not because I didn't see it, it's because I didn't deem it relevant to the crux of the complaint. This isn't intended as a discourtesy to either party, but merely to reflect my informal role in deciding what a reasonable outcome is. 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 taken into account 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 S was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we are able to investigate complaints about it.

The Consumer Rights Act 2015 (CRA) covers agreements such as the one Mr S entered into. Under this agreement, there is an implied term that the goods supplied will be of satisfactory quality. The CRA says that goods will be considered of satisfactory quality where they meet the standard that a reasonable person would consider satisfactory – taking into account the description of the goods, the price paid, and other relevant circumstances. In this case those relevant circumstances include, but are not limited to, the age, mileage and cash price of the car at the point of supply. The CRA says 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, safety, and durability.

In this case, the car was brand-new. So, I'd expect it to be in perfect working order and free from even minor defects when it was supplied to Mr S.

Under the CRA, it's assumed that any faults reported within the first six months of the agreement were present or developing at the point of supply – unless there's evidence to suggest otherwise. In Mr S' case, it's not disputed that there was a fault with the car when it was supplied to him and repairs were carried out. It also doesn't appear to be disputed that the further damage reported by Mr S was caused during the repairs, as further repairs were agreed and attempted. The offers made to replace the car and settle the agreement, refunding Mr S' deposit, seem to accept the car remained faulty following these repairs. However, Mr S explained these offers were later withdrawn and BMWFS said there was no ongoing fault with the car.

Having reviewed the available evidence, I note Mr S has provided video evidence of a clear rattling sound while the car is being driven. I've also seen an invoice that confirms the car was returned to the dealership in September 2024, following the first two repairs. The invoice was dated October 2024, and confirmed:

*“Warranty Investigation and report on the following fault rattle coming from the centre console air vent, customer can place her hand on it and it stops when driving intermitting fault on last visit we replaced the sun visor clips and it hasn't worked noise is [definitely] coming from the dash.”*

This confirms the presence of an ongoing rattle that previous repair attempts had failed to resolve. It doesn't note that any further repairs were carried out to fix it. I've also seen no evidence of any repairs carried out after this date, and Mr S has confirmed he first requested rejection around a week later.

As the car was brand-new, which should reasonably be free from even minor defects for a notable period of time, I don't think a reasonable person would expect a heater box fault, dashboard damage and a persisting rattle to occur so soon after supply. I haven't been provided with any evidence that the defects weren't present or developing at point of supply,

or that the damage was caused while in Mr S' possession. So, based on what I've seen, I'm satisfied the car was of unsatisfactory quality when it was supplied to Mr S due to the heater box fault. And the repair carried out failed to bring the car back to a satisfactory quality, given the further defects caused.

### **Putting things right**

Having determined the car wasn't of satisfactory quality when it was supplied to Mr S, and remained of unsatisfactory following repairs, I've next considered what BMWFS should do to put things right.

Outside of the first 30 days of the agreement (during which Mr S had a short term right to rejection), the CRA says a consumer has a right to reject if the goods do not conform to contract after one repair or replacement. The CRA is clear that, if the single chance at repair fails, then the customer has the right of rejection. It also says where a consumer requires the trader to repair or replace the goods, this must be done within a reasonable time and without significant inconvenience.

Here, the dealership carried out repairs to the initial fault but returned the car to Mr S with new defects. Since then, BMWFS have had multiple opportunities to repair the car. With this in mind, I find Mr S has fair grounds to seek rejection of the goods. Two repairs have been completed, and the car wasn't brought back to conformity within a reasonable amount of time.

So, BMWFS should now end the agreement with nothing further to pay and refund the deposit paid by Mr S with added interest. BMWFS should arrange collection of the car at no cost to Mr S. And when cancelling the agreement, BMWFS should ensure no adverse information is recorded on Mr S' credit file. The credit agreement should be marked as settled in full, or something similar, and should not show as voluntary termination.

I understand Mr S was hoping to receive a refund of the payments he's made towards his agreement. But Mr S has had use of the car, so I think it's fair that he pays for the use he has had. I also note that while the car was with the dealership for testing, he was kept mobile with a courtesy car. While I accept a brand-new car should be free from defects, the faults here didn't impact the overall function of the car, and Mr S was still able to drive it.

However, I've considered that driving a car with an intermittent rattle would've been irritating, so his use hasn't been carefree as he should've reasonably expected from a brand-new car. Mr S was inconvenienced by having to take the car to the dealership for repairs on multiple occasions and his frustration with the ongoing matter over a significant period of time is evident throughout his communication with BMWFS. I therefore think BMWFS should pay Mr S £250 compensation for the distress and inconvenience caused by being supplied with a car that was of unsatisfactory quality.

### **My final decision**

For the reasons set out above, my final decision is that I uphold Mr S' complaint about BMW Financial Services (GB) Limited trading as MINI Financial Services and direct them to:

- End the agreement with nothing further for Mr S to pay;
- Arrange collection of the car at no cost to Mr S;
- Remove any adverse information from Mr S' credit file;
- Refund the deposit paid by Mr S;
- Pay 8% simple yearly interest on the deposit refund from the date of payment until the date of settlement†; and

- Pay Mr S £250 compensation for the distress and inconvenience caused.

†If BMWFS considers that tax should be deducted from the interest element of my award, they should provide Mr S with a certificate showing how much they have taken off so he can reclaim that amount, if he is eligible to do so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 10 December 2025.

Nicola Bastin  
**Ombudsman**