

The complaint

Mr C complains about a car supplied under a hire purchase agreement, provided by BMW Financial Services(GB) Limited trading as ALPHERA Financial Services ('BMWFS').

What happened

Around August 2024 Mr C acquired a used car under a hire purchase agreement with BMWFS. The car is listed with a cash price of £28,480 on the agreement, was around five and a half years old and had covered around 70,000 miles. Mr C paid a deposit of £1,153.

Unfortunately, Mr C says the car developed issues. He said an engine management light ('EML') came on during the first day, and the car has been in for repairs four times. These included issues with a strong smell of fumes in the cabin, coolant, a windscreen leak and the DPF. He said out of 180 days, the garage has had it for 111. And he said the car developed the same faults a day or two after being returned to him on two occasions.

Mr C said the most recent issue was from November 2024, where the car ended up needing an engine replacement.

Mr C was unhappy with all of this and complained to BMWFS in mid-December 2024 - at this time Mr C's car was still with the dealer for repairs. Mr C also raised issues with the courtesy car he'd been recently given. BMWFS issued a final response in February 2025.

BMWFS explained, in summary, that Mr C had agreed to repairs in November 2024 and then asked to reject the car in January 2025. It said as repairs had started, he couldn't reject the car. But BMWFS said it would reimburse Mr C 50% of the repayments towards the agreement due to issues with the courtesy car, for the period his was being repaired. It said this was 79 days and BMWFS explained this worked out at £699.21.

Mr C remained unhappy and referred the complaint to our service. He said the car was returned to him in February 2025, but he no longer has faith in the car or the dealer. He said he wanted to return the car and have a full refund. Mr C confirmed that the car currently had no issues with it. But he later said he'd been told the *"adblue functionality had been disabled"*.

Our investigator issued a view and upheld the complaint. They said, in summary, that they thought the car was not of satisfactory quality when supplied. But they thought as now it had been repaired, Mr C didn't have a right to reject it. They said the 50% of repayments for the period Mr C didn't have his car for the final repair reflected the issues with the courtesy car, but said BMWFS should pay Mr C £300 to reflect the additional distress and inconvenience caused.

BMWFS accepted the investigator's opinion.

Mr C disagreed. In summary, he said the dealer had made potentially unlawful modifications to the car. He said the adblue system had been disabled and said he'd provided evidence of this. He mentioned various legislation. Mr C said he wanted to reject the car, be reimbursed

all insurance premiums paid, a full refund of the warranty and substantial payment for distress and inconvenience.

Our investigator responded and explained he hadn't seen evidence the adblue had been tampered with. But he said if Mr C now believed the car had further faults, he would need to raise this with BMWFS as this issue wouldn't form part of this complaint.

Mr C remained unhappy, so 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.

Having done so, I think this complaint should be upheld. I'll explain why.

Mr C complains about a car supplied under a hire purchase agreement. Entering into regulated consumer credit contracts such as this as a lender is a regulated activity, so I'm satisfied I can consider Mr C's complaint against BMWFS.

I want to start by explaining to both parties that I will not comment on every single piece of evidence in this case, and I might not mention every point raised. I want to reassure BMWFS and Mr C that I've carefully reviewed and considered everything, but I'm going to focus my decision on what I consider to be the key facts and the crux of the complaint. This reflects the informal nature of our service.

When considering what's fair and reasonable, I take into account relevant law, guidance and regulations. The Consumer Rights Act 2015 ('CRA') is relevant to this complaint. This says, in summary, that under a contract to supply goods, the supplier – BMWFS here – needed to make sure the goods were of 'satisfactory quality'.

Satisfactory quality is what a reasonable person would expect, taking into account any relevant factors. I'm satisfied a court would consider relevant factors, amongst others, to include the car's age, price, mileage and description.

So, in this case I'll consider that the car was used and cost around £28,500. And it had covered around 70,000 miles. This means I think a reasonable person would not have the same expectations as for a newer, less road worn model. But, given the price, I still think they would expect it to be in good condition and would expect trouble free motoring for at least a reasonable time.

In this case, it doesn't seem in dispute that Mr C's car wasn't of satisfactory quality when supplied. So, I don't need to comment on this in any detail here, other than to say having reviewed the history of repairs required I agree a reasonable person would not expect the car to have had the issues it did, and so I also find the car was not of satisfactory quality.

Having made that finding this then brings me to what I think is the crux of the complaint, which is what would be reasonable to put this right. In particular, I need to consider if Mr C has a right to now reject the car.

The CRA explains, in summary, that Mr C would have the final right to reject if after one repair the car remained of unsatisfactory quality. Again, I don't think it's a contentious issue that this would've been the case at the point where the car needed a replacement engine. I say this as several repairs had already been completed, and clearly given the car needed a new engine it was still not of satisfactory quality.

So, I then need to consider if Mr C exercised this right to reject. And I need to think about what would be fair and reasonable under the circumstances.

I've considered the history of what happened here.

I've seen an email sent from Mr C to the dealer on 1 December 2024. This had the subject "*Return and refund for defective vehicle*". In the email it states, "*As previously mentioned we would seek to look at returning the car to yourselves due to the multiple ongoing issues we have had relating to the car we purchased from you*".

In a follow up email the next day, the dealer explained no fault had been found with the car. It explained it was going to an engine specialist for a second opinion.

On 13 December 2024 Mr C emailed again and suggested some checks be performed by the engine specialist. In this email he said;

*"These should all be done for piece of mind by the garage as should the car break down again **shortly after it is returned to us.**"* (emphasis added by myself)

*"As we know this car can have problems with the engine so we want to make sure that **if we take it back**, the car is in as good condition as possible."* (emphasis added by myself)

Mr C then complained to BMWFS on 15 December 2024. In this email he says he wants to "*Return the car for a full refund and the finance settled*".

On 22 December 2024, Mr C emailed again, in summary explaining he was upset with a lack of update from the repair.

I've then seen an email from 11 January 2025 to the dealer. Here, Mr C explains he is aware the car will have a replacement engine and is expecting the car back "*within the next week or so*". It notes discussions had taken place that Mr C would be provided with all receipts and documents from the repairs. And it appears an agreement had been reached to change the courtesy car.

It's worth noting that these emails above reference phone calls and discussions that took place during this time, but I do not have these.

It's very hard to piece together exactly what happened from these email chains. I think, in summary, Mr C did exercise his right to reject the car. But he then continued to, at least, discuss repairs being carried out, including specifically what he thought should be done.

Mr C couldn't require the car to be repaired and to reject it. On balance, having thought about everything, I find it most likely Mr C agreed for repairs to be carried out, despite asking to reject the car. At the very least, I'm satisfied Mr C likely didn't consistently make his intention clear to all parties that he didn't authorise any repairs to be carried out and that he always intended to reject the car.

I've also seen an invoice for the engine replacement dated 20 December 2024. I'm satisfied this isn't when the repairs were carried out, but it does appear the dealer paid a deposit for the work and the engine was put on order. So I'm satisfied when BMWFS issued its final response repairs had already been started and at least partly paid for.

Under the very specific circumstances of this case, I find it would not be fair and reasonable for Mr C to be able to reject the car. Mr C initially confirmed to our service the car had no issues when it was returned following the final repair. So, I find in broad terms his rights

under the CRA were met when the car was repaired.

I've then considered what else should be done to put things right.

I've noted the issues Mr C said the courtesy car had when the final repair was being completed. Having thought about this, I find the 50% of payments BMWFS already offered here is fair and reasonable to reflect the inconvenience caused by this car. Mr C was kept mobile throughout the other repairs, so I don't think it needs to do anything further.

I also agree with our investigator that aside from the courtesy car, Mr C has been caused additional distress and inconvenience because of what happened. I think it must have been upsetting for him when the car had the issues it did, and he's had to take time out to arrange the repairs. I agree BMWFS should pay him an additional £300 to reflect this.

Mr C has recently explained he believes the dealer acted illegally by modifying the car. He said it had 'deactivated' the adblue system. I should explain it isn't my place to decide if anyone broke the law – this would be for a court to do.

I agree with our investigator that this specific issue didn't form part of the original complaint about the satisfactory quality of the car to BMWFS, and I don't think it's had the chance to investigate.

Any further comments I make here may affect Mr C's ability to bring a further complaint about this to our service in the future – so I want to be crystal clear to both parties that I make no findings in this decision about this specific issue.

My final decision

My final decision is that I uphold this complaint. I instruct BMW Financial Services(GB) Limited trading as ALPHERA Financial Services to put things right by doing the following:

- If it hasn't already, pay Mr C £699.21 to reflect the inconvenience caused by the courtesy car, and;
- Pay Mr C £300 to reflect the general distress and inconvenience caused

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 16 October 2025.

John Bower
Ombudsman