

## **The complaint**

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

## **What happened**

In November 2024, Mrs J was supplied with a new car through a hire purchase agreement with BMWFS. She paid an advance payment of £12,426 and the agreement was for £30,323 over 48 months; with 47 monthly payments of £380.28 and a final payment of £17,020.93.

On 27 January 2025 the supplying dealership contacted Mrs J about a safety recall on the car she'd been supplied with. They advised her of a potentially serious issue with the battery cells, which could explode, so the car shouldn't be driven under any circumstances. The dealership collected the car the following day for repair to be carried out.

The supplying dealership supplied Mrs J with a courtesy car, but she says this wasn't suitable for her – Mrs J describes herself as being of a small stature, and she chose the car she financed specifically due to its small size and the ease of driving for her. However, the courtesy car supplied was too large and Mrs J couldn't drive it comfortably. So, she returned it to the dealership. The dealership didn't provide her with a suitable replacement.

On 27 February 2025, after chasing for an update and being told the required parts weren't available, so no estimated date of repair could be given, Mrs J formally requested to be able to reject the car. The dealership didn't respond to this request so, on 7 March 2025, she complained to BMWFS, again asking for rejection.

BMWFS responded to the complaint on 9 May 2025. They confirmed that the car had been repaired on 22 April 2025, so they didn't agree she could reject the car. However, they offered to refund £570.42 of the payments Mrs J had made, as well as paying her £150 compensation for the inconvenience she'd been caused. Mrs J wasn't happy with this response, and she brought her complaint to the Financial Ombudsman Service for investigation.

Our investigator said that the car wasn't of a satisfactory quality when it was supplied to Mrs J, due to the battery fault, and Mrs J asked to reject the car because of this; and because of the time taken for repair and the significant inconvenience this caused her. The investigator thought the repairs took an unreasonable amount of time, and that the dealership hadn't acted fairly when supplying Mrs J with an unsuitable courtesy car.

So, the investigator thought that Mrs J should be allowed to reject the car, with a refund of her deposit and the payments she made since 27 January 2025, as Mrs J hadn't used the car from this date and it still remained with the dealership, in addition to the £150 compensation BMWFS had offered.

BMWFS didn't agree with the investigator's opinion. They said that, although the fault only occurred in a few vehicles, the safety recall applied to all cars of the same make and model.

So, there was nothing to say that the car supplied to Mrs J was faulty, and the recall was a preventative measure.

They also said that the delays were caused by the parts being on back order and, while it was unforeseen how long the repairs would take, under the circumstances they didn't think it was unreasonable, especially as Mrs J had been offered and supplied with a courtesy car. So, if Mrs J no longer wanted the car, they thought she should sell this back to the dealership and settle the agreement, rather than reject the car.

Because BMWFS didn't agree, this 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 overall conclusions as the investigator, and 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 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 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. Mrs J was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we're able to investigate complaints about it.

The Consumer Rights Act 2015 ('CRA') says, amongst other things, that the car should've been of a satisfactory quality when supplied. And if it wasn't, as the supplier of goods, BMWFS are responsible. What's satisfactory is determined by things such as what a reasonable person would consider satisfactory given the price, description, and other relevant circumstances. In a case like this, this would include things like the age and mileage at the time of sale, and the vehicle's history.

The CRA also implies that goods must conform to contract within the first six months. So, where a fault is identified within the first six months, it's assumed the fault was present when the car was supplied, unless BMWFS can show otherwise. So, if I thought the car was faulty when Mrs J took possession of it, and this made the car not of a satisfactory quality, it'd be fair and reasonable to ask BMWFS to put this right.

The basic facts of this case aren't disputed – Mrs J was supplied with a brand-new car that was recalled due to a potentially significant and dangerous fault. And, while she was initially provided with a courtesy car, she returned it as it was unsuitable for her.

BMWFS have raised the point that the car wasn't faulty, it was only potentially faulty, and therefore we can't say it wasn't of a satisfactory quality when it was supplied. While I've noted this argument, and that there's no evidence the car supplied to Mrs J had the battery fault, there's also no evidence that the car didn't have the battery fault either. Given that the car has been repaired, despite Mrs J clearly advising the dealership and BMWFS that she wanted to reject the car i.e., that she didn't agree to repairs, it's now no longer possible to say whether the car supplied to Mrs J had the battery fault or not.

So, I've considered what actually happened. In this instance, the dealership treated the car as if it was faulty, advising Mrs J not to use it as it could potentially explode, and collecting

the car for urgent repair. While I appreciate this was being done for all cars that were affected by the safety recall, it's also reasonable to say that, under these circumstances, any lay person would assume the car supplied was faulty. And, as I've said, there's no evidence to show that it wasn't.

Given this, I think it's reasonable to treat the car as being faulty, as it's not disputed that a repair was required.

Section 23(2) of the CRA states *"If the consumer requires the trader to repair or replace the goods, the trader must – (a) do so within a reasonable time and without significant inconvenience to the consumer."*

I accept that, when the recall took place, it affected a large number of cars, and by virtue of this there would potentially be a shortage of the parts available to enact the repairs. And this would cause delays. The car supplied to Mrs J wasn't repaired until 22 April 2025 – around three months after it was collected by the dealership.

Mrs J was originally supplied with a courtesy car that wasn't suitable for her – given her small stature, the courtesy car supplied was too big for her to comfortably drive. And she returned the car to the dealership explaining this. Given that the dealership were a supplier of the make of car Mrs J financed, I don't think it's unreasonable that, in the circumstances, they could have replaced the courtesy car with one of the same make Mrs J financed, as she specifically chose this make as its size made it easy for her to drive. However, they failed to do this, leaving Mrs J without transport for a significant period of time, thereby causing her significant inconvenience.

As such, as Mrs J was caused significant inconvenience by what happened, it's arguable that BMWFS failed to comply with Section 23(2)(a) of the CRA. And, in these circumstances, Mrs J should be able to reject the car – something she requested before the repair had taken place, entirely because of the inconvenience she'd been caused.

As such, I think BMWFS should allow rejection.

### **Putting things right**

The car was off the road and undrivable from 27 January 2025 and, since that date, Mrs J wasn't provided with a courtesy car that was suitable for her needs. As such, she was paying for goods she was unable to use. Therefore, I'm satisfied that BMWFS should refund any payments she made after this date.

I also think Mrs J should be compensated for the distress and inconvenience she was caused by the above. But crucially, this compensation must be fair and reasonable to both parties, falling in line with our service's approach to awards of this nature, which is set out clearly on our website and so, is publicly available.

I note our investigator recommended BMWFS pay Mrs J an additional £150, to recognise the distress and inconvenience caused by the complaint. This is what BMWFS offered in their complaint response, and Mrs J has accepted this. I also think this is a fair offer and one that falls in line with our service's approach and what I would've directed had it not already been put forward. So, this is a payment I'm directing BMWFS to make

Therefore, BMWFS should:

- end the agreement, ensuring Mrs J is not liable for any monthly payments after the point of collection (if any payments are made, these should be refunded);

- collect the car at no collection cost to Mrs J;
- remove any adverse entries relating to this agreement from Mrs J's credit file;
- refund the deposit Mrs J paid (if any part of this deposit is made up of funds paid through a dealer contribution, BMWFS is entitled to retain that proportion of the deposit);
- refund any payments Mrs J has made since 27 January 2025, the date she was advised not to use the car for safety reasons;
- apply 8% simple yearly interest on the refunds, calculated from the date Mrs J made the payments to the date of the refund<sup>†</sup>; and
- pay Mrs J an additional £150 to compensate her for the trouble and inconvenience caused by being supplied with a car that wasn't of a satisfactory quality (BMWFS must pay this compensation within 28 days of the date on which we tell them Mrs J accepts my final decision. If they pay later than this date, BMWFS must also pay 8% simple yearly interest on the compensation from the deadline date for settlement to the date of payment<sup>†</sup>).

<sup>†</sup>If HM Revenue & Customs requires BMWFS to take off tax from this interest, BMWFS must give Mrs J a certificate showing how much tax they've taken off if she asks for one.

### **My final decision**

For the reasons explained, I uphold Mrs J's complaint about BMW Financial Services (GB) Limited trading as MINI Financial Services. And they are to follow my directions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs J to accept or reject my decision before 18 November 2025.

Andrew Burford  
**Ombudsman**