

The complaint

Mr C complains that BMW Financial Services (GB) Limited (which I'll refer to as "Alphera") supplied him with a car which was not of satisfactory quality. He does not believe that its proposed resolution is sufficient to put things right.

What happened

In September 2021 Mr C took a used McLaren sports car on a five-year hire purchase agreement from Alphera. The car was just over three years old with a low mileage. It was priced at £121,950. Mr C paid £52,950, and Alphera provided £67,000 under the hire purchase agreement. Mr C was to make monthly payments of £1,316.93.

Mr C says that, after about a year, he decided he wanted to sell the car, so he took it to a workshop to have it prepared. There were some areas of corrosion that needed attention. The work required paintwork to be matched, but the workshop found it difficult to find an exact colour match. The workshop reached the conclusion that this was because part of the car had been resprayed with a different paint, which was not a genuine McLaren product. The workshop's director, Mr W, expressed the view that the car must have suffered damage at some point.

Mr C said that the car had not suffered any damage while it had been in his possession. It must therefore have been repaired earlier in its life. He said that Alphera or the dealership should have disclosed that to him and that, had either of them done so, he would not have entered into the hire purchase agreement.

The McLaren dealership said that the paint was designed to have a pearlescent effect, which could give the impression of being different shades, depending on the light. It also said that if the paint was not applied correctly, it could give the impression that different paint had been used on different body panels. Alphera nevertheless agreed to meet the costs of re-spraying the vehicle – around £8,000.

Mr C did not accept Alphera's offer. He said that, because of the issue with the paint and the way it had been handled, he had not been able to end the finance agreement at the time he had wished. He had therefore incurred significant extra costs, which he would not have incurred if he had been told the car had been repaired. In the course of our consideration of his complaint, Mr C indicated that he was seeking the return of the price of the car (less a deduction of just under £10,000 for the use he had had), reimbursement of all repair and servicing invoices, depreciation costs, the return of all monthly payments under the hire purchase agreement, and the cost of an independent report. In total, that came to just over £185,000.

Mr C referred the matter to this service, where one of our investigators considered what had happened. He thought that a fair and reasonable outcome would be for Alphera, in addition to funding respray costs, to reimburse Mr C for the costs of an expert's report (£360) and to pay interest on all refunded amounts at 8% a year.

Alphera accepted the investigator's assessment, offering to settle the matter in line with his recommendations. Mr C did not, however. He said that a fair remedy would be to put him in the position he would have been in if he had not taken out the hire purchase agreement.

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.

Under the Consumer Rights Act 2015 Mr C's agreement with Alphera was to be read as including a term that the car would be of satisfactory quality – meaning the quality a reasonable person would expect in all the circumstances. For a used car, those circumstances would usually include its age, price and mileage. In this case, I think it's significant too that the car was a "supercar". Most people would probably expect it to have been kept under cover, for example, and to have been used fairly infrequently. Its condition would reflect that.

The Consumer Rights Act says that satisfactory quality includes matters such as appearance and finish, and freedom from minor defects.

It was also a requirement that the car would meet its description. That description included the car's colour – "ice silver".

Even though Alphera has offered to meet the costs of a respray, it does not accept – based largely on the evidence of McLaren – that the car had been repaired before it was supplied to Mr C. I interpret the offer it made to be an attempt to resolve Mr C's complaint, not an admission of liability.

When Mr C was having repairs carried out in February 2024, Mr W wrote to him, saying:

As it stands, we have taken on the repairs to your vehicle as instructed by yourself due to the aluminium corrosion of the front fenders and the R/h door appliqué to your vehicle which you are funding by yourself, the vehicle is registered as ice silver from the information we are able to retrieve from the McLaren portal.

As we have worked closely with the McLaren Brand for a number of years now, we were confident due to the paint formulations provided for ice silver that this would be a good match to your existing body work.

However after repairing and painting the removed panels in the ice silver that the portal suggests, the left hand side of the vehicle was of a significant difference in colour, We have checked the colour from our spray-out master which it is within tolerance, we have visually viewed and then scanned the rest of the vehicle with the recommended Akzo Nobel spectrometer which is reading a colour on the LH side of the vehicle and half way through bonnet that it isn't a recognised McLaren colour.

In my experience I would hazard a guess that it has had some work at some point before your ownership, along the LH side of the vehicle at which the colour applied was noticed to be a long way off and then blended through the bonnet and front bumper to compensate for the poor colour choice.

Mr W's email went on to comment that the difference is clearly visible in the images which Mr C provided from the test drive and at collection, but that it was clearly missed at the time.

A second inspection by a different business was, in my view, inconclusive.

It appears that the colour issue only came to light, therefore, when the business carrying out repairs found that the paint it had applied did not match the existing paint on the car. There are a number of possible explanations for that, but I am satisfied, on balance, that some repainting had been carried before Mr C took delivery. I think it is significant that Mr W's email says that a spectrometer identified a colour which was not a recognised McLaren colour.

I have considered therefore whether that meant that the car was not of satisfactory quality. Mr C has not suggested that there was anything wrong with the application of the paint or the quality of any repairs which might have been carried out. He has not suggested that new paint was covering unrepaired accident damage. And, while Mr W commented that the difference was clearly visible once pointed out, I think it is significant that Mr C did not notice it during a test drive, or when he took delivery of the car, or in the subsequent two years that he owned and drove it.

I do not believe therefore that I can fairly say that the car was not of satisfactory quality simply because it had been resprayed or repaired at some point. It had been done in a way which was not detectable by Mr C and which only came to light when there were difficulties matching paint when further work was needed.

As I noted, however, the car had also to meet its description. The description included its colour. But Mr C could see what colour the car was. And, even if it had been resprayed using an extremely close match, I don't believe it could fairly be said that the car was not ice silver.

Finally, Mr C says that the car was misrepresented to him because he was not told that its paintwork had been repaired. In law, a misrepresentation is, in summary, a statement of fact or law which is not true, made by one party to a contract and which induces the other party into entering into that contract.

Mr C has not said that either the dealership or Alpheria made any positive statements about the car's paintwork. He does not suggest either that he asked about it, and of course he had no reason to do so.

A misrepresentation can be made by silence, where one party knows that the other is proceeding under a misapprehension or misunderstanding and is under a duty to point that out. But I don't believe that applies here; in any event, there is no evidence to show that the dealership or Alpheria know any more about the car's paintwork than Mr C did.

In conclusion, therefore, I am satisfied that: (i) the car was of satisfactory quality; (ii) it met its description and (iii) there was no misrepresentation and Alpheria was under no duty to tell Mr C about the paintwork.

My final decision

For these reasons, my decision is that the offer which BMW Financial Services (GB) Limited has made to resolve Mr C's complaint is fair and reasonable in all the circumstances. I simply leave it to Mr C to decide whether, on reflection, he wants to accept it, assuming it is still open for acceptance.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 29 October 2025.

Mike Ingram
Ombudsman