

The complaint

Mr N complains that a car he acquired through a hire purchase agreement with BMW FINANCIAL SERVICES (GB) LIMITED ('BMWFS') wasn't of satisfactory quality.

What happened

The parties are familiar with the background details of this complaint – so I will briefly summarise them here. It reflects my role resolving disputes with minimal formality.

In April 2023 BMWFS supplied Mr N with a car under a hire purchase agreement. The car was almost 12 months old, and the cash price was £84,000. In January 2025 the car was returned to the supplying dealer as a warning light illuminated informing Mr N there was a 'drivetrain error'. It confirmed the car's main battery had failed and this was due to a manufacturing defect.

By 19 March 2025 repairs were not completed so Mr N raised a complaint and requested to reject the car. BMWFS didn't issue its final response within the eight-week time frame and so the complaint was referred to this Service.

The car was repaired and returned to Mr N in June 2025 but because Mr N had wanted to reject the car and wasn't able to, the following month he decided to voluntarily terminate the agreement.

Our Investigator concluded the car was of unsatisfactory quality and repairs took an unreasonable amount of time, causing significant inconvenience. So, she said it was fair BMWFS facilitate a similar remedy to that if it had allowed Mr N to reject the car due to its quality. Amongst other things she recommended a refund of the deposit, a refund of a proportion of monthly rentals and compensation for the distress and inconvenience.

Mr N agreed but BMWFS said this was disproportionate to the use Mr N had of the car. It also didn't agree to the partial refund of Mr N's monthly repayments whilst the car was awaiting repair because it said Mr N had been kept mobile.

I issued a provisional decision on 6 January 2025 where I explained my intention to uphold that complaint. I said:

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. Mr N 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 and its durability. Durability means the components of the car must last a reasonable amount of time.

The CRA also says goods must conform to the contract within the first six months. 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. But, where a fault is identified after the first six months, typically it's for Mr N to show it was present when the car was supplied. So, if I thought the car was faulty when Mr N 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.

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 N's case the car was less than a year old and done around 2000 miles when he acquired it. So, although it wasn't a brand-new car, I consider a reasonable person would have high expectations around overall quality and it would be free from defects for a considerable amount of time. The cars condition should have met the standard a reasonable person would consider satisfactory, given its age, mileage, and price.

When the recent fault was identified with the car it was about two years old and had travelled less than 42,000 miles. Whilst I'd expect a degree of wear and tear, given the age, the cash price and the mileage, a reasonable person would not necessarily expect a significant component failure at this point.

The dealership agreed to undertake repairs, amongst other things both the rear drive unit and EME unit required replacement which wasn't an insignificant repair. I don't think the failure of the components would be down to general wear and tear or due to Mr N's particular use of the car. So, on balance I think the components were not reasonably durable – and the car was of unsatisfactory quality when supplied.

The usual remedies under the CRA would be a repair, replacement or rejection. I am aware the car has since been returned because Mr N has voluntarily terminated the agreement (which I'll address later). But in order to decide what's fair and reasonable, I am firstly going to determine what a fair remedy would have been had the car not been returned already.

I don't consider replacement was a practical option here given the challenge of sourcing a car with the exact same specification, age and mileage. And even if this was possible, I think it's unlikely this could've been done without causing significant inconvenience.

In the first instance, repair was likely the fairest option here – noting that under the CRA the supplier will usually have one attempt to repair goods before rejection becomes an option. There are certain circumstances where repair may be disproportionate, but I don't think that was the case here. With that being said if the required repair/parts were going to take an unreasonable time and cause significant inconvenience – then it would give rise to a right of rejection for Mr N.

Section 23 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

Given that the car went in for repair in January 2025 and the car wasn't repaired until June 2025, I'm satisfied BMWFS failed to comply with Section 23(a) of the CRA. And in these circumstances, Mr N should also have been able to reject the car.

I accept, when Mr N requested to reject the vehicle in March 2025, this may have been a premature request, but I've taken into consideration that the car took five months to repair and although he was kept mobile, he was significantly inconvenienced in his day-to-day life.

Mr N was given several courtesy vehicles, but they were not comparable in any meaningful way to his own car. For example, some of the courtesy vehicles were short-range electric models that did not meet his needs; particularly given the type of car he had chosen and the reasons he had purchased it. The limitations of the courtesy vehicles significantly disrupted Mr N's daily life. Amongst other things he had to alter his plans to travel overseas because he was unable to take a courtesy vehicle out of the country. This amounted to a considerable inconvenience.

Taking all this into account I believe Mr N should reasonably have been able to reject the vehicle before the repairs were eventually completed.

BMWFS did not allow Mr N to exercise his right to reject the car. Instead, it waited for the dealership to complete the repair work. In its final response letter, it explained because Mr N had initially agreed to repairs, it felt there were no grounds for a rejection. It also stated that the delays were not substantial enough to justify allowing Mr N his final right to reject.

But I don't agree – while it is true that exercising the final right to reject in March 2025 – only six weeks after the issue arose might have been premature, the situation had materially changed by the time BMWFS had investigated Mr N's complaint. By that point, several months had passed, and the dealership still had not received the required parts to complete the repairs. Given these delays and the significant inconvenience these delays caused, I consider Mr N would have had grounds to reject the car.

The CRA does not exactly define what constitutes a 'reasonable' timeframe for repairs, in my view a five-month delay is disproportionate in the circumstances of this complaint given that the legislation requires repairs be carried out without causing significant inconvenience to the consumer. I am not satisfied this requirement was met in this case.

Putting things right

In general, when a car is rejected and returned to the lender because it was not of satisfactory quality, we'd expect the finance to end and be recorded as settled and the consumer to receive a full refund of the deposit. We'd also usually expect any reasonable out of pocket expenses to be reimbursed and award compensation for any lost or impaired use and, relevant distress and inconvenience.

I have thought about fair redress in all the circumstances. The agreement has already ended, and the car has been collected so I am not going to direct BMWFS to do these things. However, on Mr N's credit file it should reflect that the agreement ended but not via a voluntary termination. I don't think this is an accurate reflection of what the situation really was here – and had it not been for the way BMWFS approached the investigation I don't consider Mr N would have ended the agreement this way. BMWFS should also remove all adverse information in relation to the agreement.

From the information available, Mr N was able to use his own car without issue up until January 2025. The evidence suggests he was also able to travel around 40,000 miles during this time and therefore its appropriate he pays for the period in which he benefitted from using the vehicle. I think it's fair BMWFS deduct an amount allowed for under the terms of the HPA if it deems Mr N has exceeded the annual mileage allowance.

I understand Mr N was provided with a courtesy car, generally this Service wouldn't

recommend a business to refund any monthly payments a consumer makes whilst they are kept mobile in the courtesy car because we'd be putting them back in a position of betterment, i.e. they would essentially benefit from free motoring which would be unfair. But under the circumstances of this complaint, I've explained why the courtesy car not being like-for-like was a significant inconvenience for Mr N and for these reasons I think a partial refund, 20% of his monthly repayments from February 2025 to the date the car was returned is fair.

I also think Mr N should receive his deposit paid towards the finance. I appreciate BMWFS says that Mr N was nearing the end of the agreement and essentially chose to exercise his right to voluntarily terminate so it doesn't consider it fair Mr N gets the deposit back. However, it should be borne in mind that Mr N was deprived of the ability to retain the car at the end of the agreement (which he had already paid a lot towards).

I have also thought about the overall distress and inconvenience caused to Mr N because of the issues with the faulty goods. BMWFS has already offered compensation of £250, and I think under the circumstances this is fair and in line with what I would have recommended had no offer been made.

My provisional decision

I intend to uphold this complaint and direct BMW FINANCIAL SERVICES (GB) LIMITED to:

- *Refund the deposit Mr N 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).*
- *Amend Mr N's credit file as I have directed above and remove any adverse entries relating to this agreement.*
- *Refund 20% of payments Mr N paid from February 2025 to the date the vehicle was returned.*
- *Apply 8% simple yearly interest on the refunds, calculated from the date Mr N made the payments to the date of settlement.*
- *Pay Mr N an additional £250 to compensate him for the distress and inconvenience caused by being supplied with a car that wasn't of satisfactory quality.*

**If HM Revenue & Customs requires BMWFS to take off tax from this interest, BMWFS must give Mr N a certificate showing how much tax it has taken off if he asks for one.*

For clarity, BMWFS, in line with the agreement Mr N signed is entitled to deduct from the above, excess mileage charges.

Responses

Mr N agreed with my uphold decision, but BMWFS didn't.

In summary amongst other things, it said the CRA has been misunderstood, it said it wasn't possible to reverse the voluntary termination (VT) process and ultimately it was for Mr N to decide whether to VT the agreement or not.

It said there was no evidence to support that the fault was present or developing at the point of sale and it considered the voluntary termination forming part of the complaint as a moot

point as it says it's irrelevant to the issues presented in the complaint.

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.

I've thought about what both parties have said, and I see no reason to deviate from my provisional findings. I'll explain why.

BMWFS has said there is no evidence that the issues were present or developing at the point of sale, but I disagree. Under the CRA, satisfactory quality expressly includes durability. For a vehicle of this age, mileage and price, durability expectations are much higher than those of a more used, older car. In particular, both the electric motor electronics (EME) unit and the rear drive unit (RDU) were replaced, this is confirmed by the supplying dealer. The RDU forms part of the drivetrain unit and alone is expected to last well in excess of 100,000 miles with this make and model. Further, the EME is widely understood to be a lifetime component and not a routine serviceable or wear and tear item.

The fact that both components required replacement is highly significant. They are major, fundamental components of the vehicle and their failure strongly indicates that the car was not sufficiently durable and therefore not of satisfactory quality under the CRA. In my view the components failed prematurely and so I think it's both fair and reasonable to conclude the issues were inherent, meaning they were present or developing at the point of supply. The simultaneous failure of such core components goes well beyond what a reasonable person would consider acceptable, particularly given the vehicles age and mileage at the point of supply.

Within my provisional findings I have explained why Section 23(a) of the CRA is applicable here. A repair period of around five months for a vehicle with fundamental drivetrain and EME failures is not reasonable in these circumstances. I have already explained why this timescale caused significant inconvenience to Mr N and I'm also satisfied he made BMWFS aware of this at the time. As such, the requirements of s23(a) were not met and I think Mr N should've been able to reject the car.

While BMWFS maintain that the VT process cannot be unwound this does not remove its obligation to ensure Mr N's credit file is accurate. The agreement should be recorded as having ended due to rejection under the CRA, not as a VT. Maintaining a VT marker misrepresents the reason why the agreement should've come to an end (had BMWFS supported rejection when it should have) which is unfair to Mr N.

Putting things right

I've been provided with no new evidence to change my view that the car was of unsatisfactory quality and that because repairs were not undertaken within a reasonable amount of time without significant inconvenience to Mr N, he should've been able to reject the car under the CRA.

Therefore, BMW FINANCIAL SERVICES (GB) LIMITED should:

- Refund the deposit Mr N 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).
- Amend Mr N's credit file as I have directed above and remove any adverse entries

relating to this agreement.

- Refund 20% of payments Mr N paid from February 2025 to the date the vehicle was returned.
- Apply 8% simple yearly interest on the refunds, calculated from the date Mr N made the payments to the date of settlement.
- Pay Mr N an additional £250 to compensate him for the distress and inconvenience caused by being supplied with a car that wasn't of satisfactory quality.

*If HM Revenue & Customs requires BMWFS to take off tax from this interest, BMWFS must give Mr N a certificate showing how much tax it has taken off if he asks for one.

My final decision

For the reasons explained, I uphold Mr N's complaint about BMW FINANCIAL SERVICES (GB) LIMITED and it should follow my directions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 11 February 2026.

Rajvinder Phaiser
Ombudsman