

## The complaint

Mr W complains about a car supplied to him using a hire purchase agreement taken out with BMW Financial Services (GB) Limited trading as Alphera Financial Services (“Alphera”).

## What happened

Mr W referred a complaint to us along with a representative. As the complainant is Mr W, for ease, I have addressed my decision to him only throughout, when referring to what he and the representative have told us.

In February 2023, Mr W acquired a used car using a hire purchase agreement with Alphera. The car was five years old, the cash price of the car recorded on the agreement was £35,990, the agreement was for 48 months, made up of 47 regular, monthly repayments of £552.52, followed by a final payment of £15,078.77, which included an option to purchase fee. The advance payment recorded on the agreement was £5,466. The mileage recorded on the agreement for the car when it was supplied was 53,000 miles. The maximum annual mileage set under the agreement was 6,000 miles, which meant the maximum total mileage of the car set under the agreement was to be 77,000 miles.

Shortly after acquiring the car, Mr W experienced issues with it. And said between May 2023 and August 2023, he incurred costs of around £3,000 to repair it. Mr W also said he incurred costs of around £200 in July 2023 to hire another car to be kept mobile.

Mr W said the car had further issues with it which required repairing in February 2024, at a cost of around £535.

Later, in June 2024, Mr W said there were more issues with the car, and he was quoted more than £15,000 for its repairs. An independent report was produced in September 2024, at a cost to Mr W of £300. The engineer found that the car required a replacement engine, and the car wasn't found to have been durable at the point of supply.

Following Alphera's own investigations, they accepted rejection of the car.

Mr W referred his complaint to our service in April 2025 as he couldn't agree a suitable remedy with Alphera.

In May 2025, Alphera offered to:

- Accept rejection of the car.
- Refund Mr W's advance payment.
- Refund the cost of repairs carried out, the cost of hiring another car, as well as the cost of having the car inspected.
- Pay £200 for the distress and inconvenience caused.

Alphera didn't think they needed to refund Mr W for monthly repayments for the time he didn't have use of his car, as Mr W had exceeded the annual mileage allowance set in the

agreement. Mr W thought he should have been charged an excess mileage rate for additional miles driven, rather than not receiving any monthly repayments back.

Our investigator thought that it was fair for Alpera to retain monthly repayments made towards the agreement until December 2024 for fair usage. The investigator explained that Mr W wouldn't have had to pay anything further if the agreement had been unwound at the point they accepted rejection of the car. So, the investigator instructed Alpera, in addition to everything they said they would do, to also reimburse Mr W monthly repayments from January 2025 onwards.

Alpera accepted the investigator's findings. Mr W disagreed. Mr W thought he should be reimbursed for monthly repayments made towards the agreement from June 2024, as he said he couldn't use the car since this time.

Our investigator explained that she thought the outcome she had reached was fair. She explained that Alpera were entitled to retain payments made towards the agreement for fair usage and considering the mileage the car had been driven, she didn't think Alpera needed to do anything more than what she had already instructed them to do.

As Mr W disagreed, the complaint was passed to me to decide.

I issued a provisional decision on 21 October 2025 where I explained why I intended to uphold Mr W's complaint. In that decision I said:

*"I'm aware I have summarised events and comments made by both parties very briefly, in less detail than has been provided, largely in my own words. No discourtesy is intended by this. In addition, if there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is a fair outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as an alternative to the courts.*

*Mr W complains about a car supplied to him under a hire purchase agreement. Entering into consumer credit contracts such as this is a regulated activity, so I'm satisfied I can consider Mr W's complaint about Alpera.*

*When considering what's fair and reasonable, I take into account relevant law and regulations. The Consumer Rights Act 2015 ("CRA") is relevant to this complaint. The CRA explains under a contract to supply goods, the supplier – Alpera here – has a responsibility to make sure goods are of satisfactory quality. Satisfactory quality is what a reasonable person would expect – taking into account any relevant factors.*

*I would consider relevant factors here, amongst others, to include the car's age, price, mileage and description. So, it's important to note that the car Mr W acquired was used, over five years old, had been driven around 53,000 miles and cost around £36,000. I think a reasonable person would accept that it would not be in the same condition as a new car and was likely to have some parts that are worn.*

*Normally, I would consider whether the car was of satisfactory quality when it was supplied. And to do that, I would consider whether the car developed a fault. However, in this instance, it isn't in dispute that the car developed a fault and that it was supplied to Mr W of unsatisfactory quality. I say this because Alpera has already accepted the rejection of the car. So, I won't make any findings on the matter, other than to say that I also accept the car wasn't supplied of satisfactory quality to Mr W, having considered the faults the car developed.*

*What I now need to consider is what Alphera needs to do to put things right.*

*From my understanding, Alphera has already accepted the findings the investigator made. So, the only issue which is in dispute is in relation to how many monthly repayments Alphera are required to reimburse. So, I will only make a finding on this matter, as the other aspects aren't in dispute.*

*Alphera think they should reimburse monthly repayments from January 2025 onwards, as they accepted rejection of the car in December 2024. They say this is also to take into account fair usage of the car. On the other hand, Mr W believes monthly repayments should be reimbursed from June 2024 onwards as this is when he stopped having use of the car.*

*It is worth noting here that I don't dispute that Mr W hasn't been able to have use of the car since June 2024, as I can see this is when a quote was supplied for a replacement engine. It is also worth noting here, that the car had been driven around 17,900 miles by Mr W within 18 months of being supplied the car. So, if a pro-rata of the car's maximum annual mileage was considered up to June 2024, then the car should have only been driven around 8,000 miles more than it had been driven from the point of supply. So, in this instance, the car had been driven around 10,000 miles more than expected by June 2024.*

*According to the terms of the agreement, the excess mileage is charged at 7.77 pence per mile. And the agreement also says that:*

*"If you return the Vehicle before the end of the agreement the Total Maximum Mileage will be reduced to reflect the shorter period of hire on a pro-rata basis."*

*This would mean that the charges for excess mileage would be around £780, given the car had been driven around 10,000 miles more than expected by the time it broke down in June 2024.*

*However, if Mr W continued to pay the monthly instalments towards the agreement up until December 2024, this would mean he would pay six more instalments, which would total more than £3,300. This would be for a period when Mr W wasn't able to use the car.*

*I don't think it is fair that Mr W would have to pay for the car for a time he didn't have use of it. And I'm also mindful that there were delays in Alphera reaching a conclusion to their investigation, as Mr W complained in June 2024, but Alphera only accepted rejection of the car towards the end of 2024.*

*Considering the above, I think a fairer outcome would be for Alphera to reimburse monthly repayments made towards the agreement from June 2024, as this is when Mr W didn't have use of the car. And for Alphera to then charge for excess mileage in line with the agreement."*

I set out that I intended to uphold this complaint. And I gave both parties the opportunity to send me any further information or comments they wanted me to consider before I issued my final decision.

#### Responses to the provisional decision

Mr W didn't respond before the deadline I set in my provisional decision.

Alphera responded and said that the terms of the agreement in relation to the excess mileage charge was only applicable when at least 50% of the total amount payable under the agreement had been paid. They thought a mileage charge more in keeping with those

that they had agreed with the brokers and dealers in their network was a fairer way to settle this 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.

Having done so, I'm not persuaded to change my opinion from the provisional decision I made.

Alphera responded and said that the terms of the agreement in relation to the excess mileage charge is only applicable when at least 50% of the total amount payable under the agreement has been paid. They said these are the terms made clear under a section called "*Termination: Your Rights*".

To be clear, I don't think Mr W is terminating the agreement in line this provision. In this instance, it isn't in dispute that the car developed a fault and that it was supplied to Mr W of unsatisfactory quality. I say this because Alphera has already accepted the rejection of the car. So, this particular term is irrelevant when considering unwinding the agreement, as Mr W wouldn't be expected to pay at least 50% of the total amount payable under the agreement if he is to reject the car.

So, while I appreciate Alphera's comments here, it stands that I still think a fairer way to resolve this complaint is to continue to use the figures in the agreement in relation to excess mileage charges, rather than an arbitrary figure Alphera has agreed with third-parties.

In summary, I think Alphera needs to do more in this instance to put things right. I'm satisfied the outcome reached is fair and reasonable given the circumstances.

### **My final decision**

For the reasons I've explained, I uphold this complaint, and I instruct BMW Financial Services (GB) Limited trading as Alphera Financial Services to put things right by doing the following:

- End the agreement ensuring Mr W is not liable for monthly rentals after the point of collection (it should refund any overpayment for these if applicable).
- Collect the car (if this has not been done already) without charging for collection.
- Refund Mr W's advance payment towards the agreement of £5,556.75. If any part of this advance payment was made up of funds through a dealer contribution, then Alphera doesn't need to refund this amount. \*
- Reimburse Mr W monthly repayments made towards the agreement from June 2024 until the agreement ends. And for Alphera to charge Mr W for excess mileage in line with the figures in the agreement, if applicable. \*
- Reimburse Mr W £3,959.61 in total, for the costs he's incurred in having the car repaired, to hire another car and to have the car inspected. As agreed already, payments were made on:
  - 6 March 2023 - £159.25 \*
  - 2 May 2025 - £430.99 \*
  - 1 July 2023 – 195.62 \*
  - 17 July 2023 - £700.00 \*
  - 10 August 2023 - £1,112.41 \*
  - 22 August 2023 - £525.16 \*
  - 23 February 2024 - £536.18 \*

- 9 September 2024 - £300.00 \*
- Pay Mr W £200 to reflect the distress and inconvenience caused.
- Remove any adverse information from the customer's credit file in relation to the agreement, if any.

\* These amounts should have 8% simple yearly interest added from the time of payment to the time of reimbursement. If Alphera considers that it's required by HM Revenue & Customs to withhold income tax from the interest, it should tell Mr W how much it's taken off. It should also give Mr W a tax deduction certificate if they ask for one, so they can reclaim the tax from HM Revenue and Customs if appropriate.

If Alphera has already given compensation in relation to this specific complaint, the final amount should be less the amount already given.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 3 December 2025.

Ronesh Amin  
**Ombudsman**