

## The complaint

Mr S is unhappy that a car supplied to him under a hire purchase agreement with BMW Financial Services (GB) Limited ('BMWFS') was of an unsatisfactory quality.

## What happened

The complaint circumstances are well known to both parties, so I don't intend to list this chronologically and in detail. However, to summarise, in July 2023, Mr S was supplied with a new car through a hire purchase agreement with BMWFS. He paid an advance payment of £3,874.65 and the agreement was for £38,489.12 over 48 months; with 47 monthly payments of £473.87 and a final payment of £22,061.97.

Mr S experienced an intermittent problem with the car from shortly after it was supplied to him – the car was making loud and unusual grinding noises when reversing. He first raised this with the supplying dealership on 13 August 2023, and they suspected a tyre or brake issue. Multiple repairs were attempted by the dealership over the next year or so, but Mr S said the problem persisted. So, he complained to BMWFS in February 2025.

BMWFS didn't uphold the complaint, as they didn't think there was any evidence the car had a fault that was present or developing at the point of supply. Unhappy with this, he brought the matter to the Financial Ombudsman Service for investigation. He also arranged for the car to be inspected by an independent engineer, at a cost of £288.

This inspection took place on 4 August 2025, when the car had done 24,830 miles. The engineer had been provided with the full history of the dealership's attempted repairs, as well as a video showing the noise at 24,760 miles – so shortly before the inspection was carried out.

While the engineer was unable to replicate the noise, they were satisfied from the evidence that there was an issue which was *"potentially brake related but we are unable to confirm and further investigation would be required."* They also said that *"the suspected brake noise would have been developing at sale and [the car requires] returning back to the selling dealers ... for further investigation."*

After reviewing this report, BMWFS acknowledged that there may have been a problem with the car, but they thought it had now been fixed. However, our investigator said that the car wasn't of a satisfactory quality when it was supplied to Mr S, and that attempted repairs had failed. As such, Mr S should now be allowed to reject the car, receive a refund of his deposit, a refund of the cost of the independent engineer's report, and a total of £450 compensation.

Mr S agreed that he should be allowed to reject the car, but he didn't agree with the remedy proposed by the investigator. He thought that he should receive a partial refund of the payments he made to reflect fair usage of the car, and that the total compensation should be increased to £1,000, along with a refund of the service plan and tyre/alloy insurance he'd taken out. Mr S also provided more videos to show the issue with the car was ongoing.

BMWFS also didn't agree with the investigator's opinion. They said the independent engineer was unable to find a fault with the car, and that it wasn't reasonable to rely upon videos that don't have a timestamp.

The investigator issued a second opinion following the comments from both parties. In this they detailed that the brakes were being repaired/replaced every 3,000 to 4,000 miles, and that Mr S has funded some of these repairs himself. So, the investigator said that, in addition to what was previously recommended, BMWFS should also refund Mr S £679.79 for the cost he incurred in replacing the brakes.

BMWFS still didn't agree with the investigator's opinion, and they said the dealership has confirmed the issue with the brake noise was a characteristic of the car. So, they didn't agree the car was faulty.

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. Mr S 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 that the components of the car must last a reasonable amount of time.

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 Mr S took possession of it, or that the car wasn't sufficiently durable, and this made the car not of a satisfactory quality, it'd be fair and reasonable to ask BMWFS to put this right.

I've seen a copy of the independent engineer's report dated 4 August 2025. Within this report, the engineer confirmed their duty is to the courts, not to the person who instructed or paid for the report. As such, I'm satisfied this report is reasonable to rely upon.

BMWFS have argued that the engineer was unable to find fault with the car and that the issue with the brake noise was a characteristic of the car. In arguing the noise is a characteristic, it's reasonable for me to assume that BMWFS are acknowledging the noise exists – if it didn't then it wouldn't be a characteristic.

While the independent engineer did say they weren't able to replicate the fault during the inspection, based on the evidence that had been supplied, as I've stated above, they said the *"brake noise would have been developing at sale and [the car requires] returning back to the selling dealers ... for further investigation."* As the expert in this situation, if the noise was a characteristic, then I would've expected the engineer to say this. And, as they didn't.

What's more, if the brake noise was a characteristic of the car, it would be reasonable to expect the supplying dealership to have raised this when Mr S first contacted them in August 2023, and not to wait until October 2025. I've seen that BMWFS have been asked for evidence of this being a characteristic, for example a reference in the literature relating to the car or a video of another car of the same make and model with the same issue, but this hasn't been provided. As such, I'm satisfied that the issues Mr S is experiencing is not as a result of a characteristic of the car.

BMWFS have also said that it's not reasonable to rely on undated video evidence to show that an issue still exists. While the video evidence may not be time stamped, it does show the mileage on each occasion. The videos I've seen all show a mileage of around 26,000 to 27,000 miles – more than when the car was inspected in August 2025. Therefore, I'm satisfied the issue with the car still remains, and this issue made the car of an unsatisfactory quality when it was supplied to Mr S.

As such, BMWFS need to do something to put things right.

### **Putting things right**

Section 24(5) of the CRA says *"a consumer who has ... the right to reject may only exercise [this] and may only do so in one of these situations – (a) after one repair or replacement, the goods do not conform to contract."* This is known as the single chance of repair. And this applies to all issues with the goods, and to all repairs i.e., it's not a single chance of repair for the dealership AND a single chance of repair for BMWFS – the first attempted repair is the single chance at repair. What's more, if a different fault arises after a previous repair, even if those faults aren't related, the single chance of repair has already happened – it's not a single chance of repair per fault.

The dealership has attempted to repair the car on multiple occasions – again, something they wouldn't have done if the issue was a characteristic with the car – and the evidence shows the issue remains. As such, the single chance of repair has failed and Mr S has the right to reject the car, with a refund of the deposit he paid.

Mr S has been able to use the car while it was in his possession. And, while it was being repaired, he was also provided with a courtesy car to keep him mobile. Because of this, I think it's only fair that he pays for this usage. So, I won't be asking BMWFS to refund any payments Mr S made.

Mr S has said he should receive a partial refund of the payments he's made, due to the issues he's had with the car. In considering this, I've also considered this was an intermittent fault that happened in specific circumstances. The investigator has recommended BMWFS pay Mr S £250 for the loss of enjoyment he had as a result of this, and I think this is fair in the circumstances. As such, I won't be asking BMWFS to increase this.

Mr S also paid £288 for the independent engineer's report. This would not have been necessary if the dealership/BMWFS had accepted there was a fault with the car that wasn't able to be repaired. Therefore, I'll also be asking BMWFS to reimburse Mr S for this cost.

Mr S has asked for a refund of the service plan and tyre/alloy insurance he's taken out. The car was supplied to him in July 2023. I'm therefore satisfied that Mr S has had the benefit of these plans/policies, and the protection they provided (even if he didn't need to claim). So, I don't think it would be fair for me to now say that BMWFS should reimburse the costs of these as, if I were to do so, Mr S would be in a position of betterment – Mr S would have had the benefit of these without having to pay for them.

Finally, I think Mr S should be compensated for the distress and inconvenience he's been caused. While Mr S thinks this should be increased to £1,000, any 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 also recommended BMWFS pay Mr S an additional £200, to recognise the distress and inconvenience caused by the complaint. And having considered this recommendation, I think it's a fair 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 Mr S 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 Mr S;
- remove any adverse entries relating to this agreement from Mr S's credit file;
- refund the deposit Mr S 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);
- upon receipt of proof of payment, reimburse Mr S the £288 cost of the independent engineer's report;
- apply 8% simple yearly interest on the refunds, calculated from the date Mr S made the payment to the date of the refund<sup>†</sup>; and
- pay Mr S a total of £450 to compensate him 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 Mr S 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 Mr S a certificate showing how much tax they've taken off if he asks for one.

### **My final decision**

For the reasons explained, I uphold Mr S's complaint about BMW Financial Services (GB) Limited. And they are to follow my directions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 30 December 2025.

Andrew Burford  
**Ombudsman**