

### The complaint

Mr M is unhappy with how arrears and a default on a hire purchase agreement with BMW Financial Services (GB) Ltd (BMW) was dealt with.

When I refer to what Mr M has said and what BMW have said, it should also be taken to include things said on their behalf.

### What happened

In November 2022 Mr M entered into a hire purchase agreement with BMW for a two year old car. The price of the car was £62,950 with a £10,000 deposit. The rest was financed with 47 monthly payments of £983.77 and a final option to purchase payment of £28,481.60. Mr M began to fall into arrears in the spring of 2024 and ultimately his agreement was terminated by BMW on 30 May 2025. Mr M did not feel that BMW had treated him fairly and he had made a new payment offer to address the arrears on 17 June 2025. As he was not happy with how he had been treated he complained to BMW.

On 30 June 2025 BMW issued their final response letter. They did not uphold Mr M's complaint. They stated that they had tried to reach a resolution but as they had been unable to, they issued a default notice on 3 April 2025 for £3,562.70, giving a deadline of 23 April 2025 for the arrears to be paid. As this was not done, they terminated the agreement on 30 May 2025 and issued the relevant termination notice. All notices were sent to the address they had on file for Mr M. They also confirmed that they could not overturn the decision to terminate the agreement.

As Mr M was not happy with this response he complained to our service.

On 14 November 2025 our investigator issued their view. They did not uphold Mr M's complaint. They noted that Mr M's April 2024 direct debit was returned as unpaid and the arrears increased through to the point where it stood at £4,018.85 in October 2024. They felt that BMW had communicated clearly, agreed a short term payment plan in October 2024 that Mr M did not adhere to and the appropriate notices were served on Mr M ahead of terminating the agreement on 30 May 2025.

Mr M did not agree with the investigator's view and in particular raised:

- The relevant protections provided by S90 and 91 of the Consumer Credit Act 1974, meaning that the car could not be repossessed without a court order as he had paid more than one third of the total sum owing.
- His vulnerability was not fully taken into account.
- He remained fully engaged in dialogue with BMW and made what he felt was a reasonable payment plan offer.

This did not change the investigator's view. Mr M's agreement had already been terminated before he made the payment plan offer. The issue about s90 and 91 protections had not been raised with BMW and we can only look at complaints once the business has had chance to consider and respond, so Mr M would need to first raise this with BMW.

As Mr M still did not agree it has been passed to me to consider.

### **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.

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 M was supplied with a vehicle under a hire purchase agreement. This is a regulated consumer credit agreement which means we are able to investigate complaints about it.

I am highly empathetic to Mr M's personal circumstances and have great sympathy with the situation he finds himself in. I can see that he has attempted to keep the agreement up to date. However, I can only hold BMW to account if they haven't followed the correct processes in dealing with Mr M's arrears or otherwise treated him unfairly. If I do it would be only right and proper to ask BMW to put things right.

I will summarise Mr M's complaint file but I want to assure both parties that I have thoroughly read all information included as part of it.

Mr M initially entered into a hire purchase agreement with BMW for a two year old car. There appears to be no issues with the quality of the car. Mr M initially kept up with the payments on the car but due to both changes in work and personal circumstances fell into arrears. I can see from the file that a total of 18 notices were sent to Mr M (often more than one in a month) to highlight the arrears to him. These notices started in March 2024.

I can see that Mr M stayed engaged and made attempts to pay. On 3 October 2024 the arrears stood at £4018.85 and a payment plan was agreed to reduce the arrears but my understanding that this plan was not kept to. A formal default notice was issued on 3 April 2025, when the arrears stood at £3,562.70 and Mr M was given until 23 April 2025 to clear the arrears. This was not done so a formal notice was issued on 30 May 2025 and the agreement terminated.

In terms of following the correct process I am content that BMW followed the correct procedures as set out in legislation and guidance, primarily the Consumer Credit Act 1974.

I will now consider whether BMW have otherwise treated Mr M fairly. The questions I need to consider are:

*Was Mr M kept fully up to date with the state of his account, so that he could make appropriate decisions?*

As I stated earlier the file contains a total of 18 notices setting out arrears and additionally Mr M was supplied with the required annual statements. So I am content that BMW were truthful and transparent with the information provided to Mr M.

*Did BMW deal with Mr M with forbearance and consideration?*

Section 7 of the Consumer Credit Source Book requires any business to deal with a consumer in arrears with forbearance and consideration. Mr M first fell into arrears in March 2024. BMW issued numerous notices and even agreed, in October 2024, a new payment

plan. Unfortunately this new payment plan was not adhered to. Given that BMW did not seek to issue a formal default until 12 months after the account had gone into arrears and a new payment plan not adhered to by Mr M, I cannot conclude that they have not dealt with Mr M with anything other than appropriate forbearance and consideration.

*Did BMW take into account Mr M's vulnerability and make reasonable adjustments?*

I can see from the file the significant change in circumstances that Mr M has suffered and the impact that this has had on him. However I cannot see any evidence that the significance of Mr M's change in circumstances were ever communicated to BMW. Even if they were I can see that BMW have been consistent, clear and fair in how they have dealt with Mr M, so am not convinced that there are any further steps that I could reasonably ask them to take.

*Did they serve notices to the correct address?*

I can see that Mr M's circumstances meant that he was not residing at the address registered for the account for some time. However, I can only see that this was raised with BMW on 17 June 2025, when he offered a new payment plan. It is clear that Mr M was responding to BMW when they contacted him, so all notices were properly served to the address they had recorded on his file.

*Should BMW have considered Mr M's offer of a payment plan?*

The agreement with Mr M was officially terminated on 30 May 2025 and the new payment plan offer was made on 17 June 2025. At this stage BMW are under no obligation to consider new payment plans.

*Does Mr M have protection under the Consumer Credit Act 1974?*

As per our investigator's view any complaint relating to the collection of the car has not been through BMW's complaint process so I am unable to consider this element of the complaint. However I would point out that the notice of termination issued on 30 May 2025 does note that the car is protected and if Mr M does not consent to BMW taking the car back then they will need to apply for a court order. If Mr M believes that the car has been repossessed without his consent or court order in place he will first need to raise this with BMW.

I believe that BMW have followed due process in how they have dealt with Mr M's arrears and default. They have also dealt with him fairly and with relevant forbearance and consideration. For those reasons I do not uphold this complaint.

**My final decision**

My decision is that I do not uphold this case.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 28 January 2026.

Leon Livermore  
Ombudsman