

The complaint

Mr A is unhappy with the quality of two cars financed using a hire purchase agreement from BMW Financial Services (GB) Limited trading as Alphera Financial Services.

What happened

In July 2023 Mr A entered into a hire purchase agreement with BMW for a used car. The car was around seven years old and had been driven for around 24,600 miles. The cash price was £59,000.

Mr A says he experienced intermittent problems with the emissions warning light being illuminated. He was also concerned that the clutch would require replacement soon.

Mr A felt there was problems with the car which ultimately led to him returning it and acquiring a new one. The dealership has said they secured Mr A a discount on the new car. Mr A also says he paid £7,000 because of the negative equity on the old agreement.

The hire purchase agreement for the new car was taken out in June 2024. It shows a deposit amount of £708.04. The cash price for this car was £73,459.81. It was around six years old and had been driven for 22,750 miles.

Mr A experienced further issues with the second car. This included delays in delivery and issues with loss of power.

It was agreed that Mr A could reject this car. He was given a refund totalling £1,983. 56 from the dealership and his agreement was unwound.

Mr A also complained to BMW and as part of their response to his complaint, they offered him a refund of one of his monthly repayments.

Mr A didn't feel like this was a fair resolution considering all the issues he had experienced and so brought the complaint to our service. One of our investigators looked into things and said BMW needed to do more and so upheld the complaint.

Neither Mr A or BMW agreed with our investigator's findings, so it was passed to me to decide. I previously issued a provisional decision on this complaint as my findings were different from that of our investigator. In my provisional decision, I said:

Mr A has gone into great detail in setting out his concerns, and while for reasons of brevity I might not address each aspect individually here, I'd like to assure him that I've carefully read and considered all that he's said. Where I haven't directly addressed a complaint point individually, it's because I'm satisfied doing so would have no material impact on the overall outcome.

Mr A acquired his cars using hire purchase agreements and so The Consumer Rights Act 2015 ("CRA") is a relevant legislation for this complaint. The CRA sets out expectations and

requirements around the quality of goods supplied. In summary, goods should be of satisfactory quality. Section 9 of the CRA says that goods are of satisfactory quality if they meet the standard that a reasonable person would consider satisfactory. When considering the quality of a car, the age, mileage and price are things that need to be taken into account.

I would also like to point out that despite requests to BMW, we have not received evidence disputing the timeline of events Mr A has provided. Because of this, and because I find Mr A's testimony plausible and persuasive, I have relied on his testimony when deciding when his car was in for repairs at the dealership.

Mr A's first car

BMW have said that they didn't have a chance to issue a final response letter about Mr A's problems with this car. I've considered what they've said but I can see Mr A mentioned his general unhappiness with the first agreement when he discussed his complaint with them on 10 January 2025. It has also become clear in the course of this complaint that Mr A is unhappy about what happened with the first car. So, I think BMW have had an opportunity to respond to a complaint about the first car if they wished to do so.

And so, this decision will review what happened with Mr A's first car.

I've had to consider that this car was not rejected in line with the CRA. Instead, Mr A came to an agreement with the dealership about returning it so he could purchase another car.

I can see from the evidence on file that Mr A did experience problems with this car. I can also see some of these issues were fixed.

Mr A first reported issues in September 2023. These issues included a door not staying open, a leak from a door window, leather shrinkage and some electrical issues. Mr A has explained his car was returned to the dealership on 13 October 2023 for these issues to be repaired and it was returned to him on 28 October 2023.

Without evidence to the contrary, I find Mr A's testimony persuasive that these issues existed and needed to be repaired. I've also noted they occurred within the first six months of ownership. Considering the age of Mr A's car and the price he paid for it, I think a reasonable person under the parameters set out under the CRA would say these issues were linked to the quality of the car at the time of supply.

Mr A has said he wasn't provided with a courtesy car when these repairs were taking place and so, I don't think it's reasonable that Mr A should be liable for the finance repayments during this time.

The car was returned to the dealership again in January because there was still a leak to the car door. The leak was first reported by Mr A in September 2023. Considering the nature of the issue, and when it was first reported to the dealership, I think this fault was most likely present at the point of supply.

Mr A had to pay £49.99 for a hire car while this was repaired. As I think the fault was connected to the quality of the car at the point of supply, I think BMW should refund this cost to Mr A.

BMW should pay Mr A 8% interest on these refunded payments from the date they were paid to the date they are refunded. This is because Mr A has been without use of these funds.

Following these repairs, there were also outstanding issues with the engine emissions light being intermittently illuminated. Mr A also had concerns about the durability of the clutch.

The dealership had the car for a period of time from March 2024 and have said they were unable to replicate the light being illuminated. They also said there is no evidence that the clutch needed replacing. They've said the new owners of the car have also not reported any faults with it.

Mr A has supplied an email which says:

I have had the clutch reading carried out.

The reading on the N430 is at 1645. The "Worn" limit is 1650. The factory always advised if a customer was experiencing driving or shifting issues and the reading is over 1650 then they advise replacing the clutch. However, we have seen clutches up at 1750-1800 driving and feeling OK.

And so, while I can understand Mr A's concerns about the future, according to the evidence, the clutch was not faulty at the time it went in for investigations at the dealership.

I acknowledge that Mr A would've been without his car during this time. However, emails from this time show there was an arrangement that the dealer was trying to sell the car for Mr A and there is also no evidence there was a problem with the car. And for these reasons, I don't think it would be fair for the finance payments for this period to be refunded as I can't say the loss of use in this instance was connected to the quality of the car as set out in the CRA.

In addition, because there isn't any evidence there was a problem with the clutch which required repairs, I can't say I would've expected the car to have been rejected for this issue.

And so it follows, that I can't interfere with any agreement made by Mr A and the dealership when the return was agreed. And this means, I won't be asking BMW to reimburse the money Mr A had to pay because of the negative equity.

Mr A's second car

It isn't in dispute that Mr A has rejected this car in line with the CRA. So, I've considered whether BMW have done enough to put things right.

As part of the rejection, Mr A's agreement has been unwound so he has nothing left to pay. He has been refunded the deposit amount of £708.04 plus a further £1,275.52 from the dealership. I've considered that under the parameters of the CRA, the further £1,275.52 didn't need to be paid to Mr A.

However, I think BMW need to do more here. They should pay him 8% simple interest on the deposit amount of £708.04 from the date Mr A paid it to the date it was refunded. This is because Mr A has been without these funds.

Mr A experienced a delay in delivery of his car which meant he didn't receive it until 20 July 2024, despite his agreement beginning on 25 June 2024. Because he didn't have a car for this period, the finance payments for this time should be refunded to account for the time he was waiting for his car to arrive and wasn't able to use it.

There isn't a dispute that Mr A's car was rejected because of an issue with the battery. The car was in for repairs to the battery from 18 October 2024 to 25 October 2024. For the same

reasons as above, Mr A's payments should be refunded for this time.

Mr A has said he had to pay £485 for a replacement battery following these repairs. As the car losing power was a reason for the rejection, I consider this an associated loss. So, it follows that subject to proof of payment, £485 should be reimbursed to Mr A.

On 28 November the car was taken back to the dealership because it lost power again. Following this, rejection of the car was agreed in December 2024. Mr A was without a car from when the car was taken to the dealership at this time, and so for the same reasons as above, BMW should refund him his finance payments to reflect that he didn't have use of the car from 28 November 2024 until the car was rejected formally on 8 December 2024.

BMW should pay Mr A 8% interest on these payments from the date they were paid to the date they are refunded. This is because Mr A has been without use of these funds.

Distress and inconvenience

Mr A has been reimbursed a monthly finance payment by BMW of £1,088.32 to acknowledge the distress and inconvenience he has experienced because of all that happened. He also received a further £1,275.52 from the dealership in addition to his deposit refund. I can see that Mr A has had a lot of frustrations with his two cars. I know he had to return the cars to the dealership multiple times, and because of the distance from where he lived, I know this was a large inconvenience.

I've carefully considered all that has happened and the overall payment of £2,363.34. After doing so, I think this is a fair reflection of the distress and inconvenience Mr A has experienced.

Mr A responded to my provisional decision and said:

- He hadn't accepted or been paid the £1,088.32 from BMW.
- He didn't pay for the battery as this was covered by the dealership as a gesture of goodwill.
- He said the first car was also returned for a sensor fault and he was asked to pay £700 for this to be investigated further- which he refused to do. He instead, instructed them to try and sell the car.

BMW replied to my provisional decision and said:

- They maintain they were not aware about any dissatisfaction with the first car so don't feel it should be included in this complaint.
- They said the dealer has said the car was with them between 21 March and 25 June on a sale or return agreement as per Mr A's request.
- The dealership sold Mr A the second car below market value to try and assist him, treating the first car as a part exchange.
- They don't think it's fair to hold them responsible for remedying a situation they had no knowledge or influence over.

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.

Mr A's further comments

Mr A has offered to provide emails showing that he asked the dealership to fix a sensor fault with his car when it was returned at the same time for his clutch concerns. I don't doubt what he has said about this and have also seen reference to this fault in some of the emails I've already been sent, so I don't need Mr A to send me anything further.

I considered the illuminated engine light in my provisional decision. Ultimately, even if Mr A felt there was a sensor fault that needed to be investigated, the dealership said they couldn't replicate it, and Mr A agreed to return the car separately from the CRA. The dealership also maintains no further faults have been found with the first car since it has been returned. So, there is little evidence I can rely upon to show that these faults were confirmed by the dealership or were related to the quality of the car at the point of supply.

Nor can I ignore that Mr A has agreed he left the car with the dealership so they could also try and sell it for him. And so, for the same reasons outlined in my provisional decision, I don't think the repayments for this period need to be reimbursed by BMW.

Mr A has confirmed he didn't pay for the replacement battery so I don't think BMW should pay for this.

BMW's further comments

I've already outlined in my provisional decision why I have reviewed what happened with the first car, so I won't repeat them again here. My provisional decision also set out the basis of the CRA. I know Mr A first approached the dealership about the problems he was having but the CRA establishes that a finance company is liable for the quality of the goods at the point of supply.

I also haven't asked BMW to refund any payments when the first car was with the dealer between 21 March and 25 June, so I don't think there is anything further I need to say in regards to this.

So, because of the reasons explained above, after reviewing the comments from BMW and Mr A, I see no reason to depart from the conclusions I reached in my provisional decision

Putting things right

My final decision is that I uphold this complaint and require BMW to do the following:

1. Reimburse Mr A the £49.99 he paid for the hire car, subject to proof of payment being provided;
2. Refund Mr A's finance payments on his first agreement to account that he was without his car from 13 October 2023 to 28 October 2023;
3. Refund Mr A's finance payments on his second agreement to account that he was without his car from 25 June 2024 to 20 July 2024, 18 October 2024 to 24 October 2024 and 28 November 2024 to 8 December 2024;
4. Add interest at a rate of 8% a year simple to parts one to four of this settlement from the dates they were paid, to the date of settlement of this complaint;*
5. Pay 8% a year simple on the deposit amount of £708.04 from the second agreement from the dates it was paid, to the date of settlement of this complaint;*
6. Pay Mr A the £1,088.32 BMW offered in their final response letter, if they haven't already done so.

7. If they haven't already done so, BMW should also remove any adverse information which has been recorded with the credit reference agencies for the second agreement.

*If BMW deducts tax from any interest they pay to Mr A, they should provide him with a tax deduction certificate if he asks for one, so he can reclaim the tax from the tax authorities if appropriate.

My final decision

My final decision is that I uphold this complaint and require BMW Financial Services (GB) Limited trading as Alphera Financial Services to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 27 January 2026.

Ami Bains
Ombudsman