

The complaint

The estate of Mrs P complains about the way BMW Financial Services (GB) Limited trading as Alpha Financial Services (BMWFS) dealt with the termination of a motor finance agreement after Mrs P passed away.

What happened

Mrs P took out a regulated hire purchase agreement with BMWFS in August 2021 to fund the cost of a car. The agreement had a total amount payable of £16,472 and having paid a £3,800 deposit, Mrs P was required to make regular repayments over 48 months, followed by one optional final payment of £5,076.

Sadly, Mrs P passed away in November 2022 before the agreement came to an end. The estate of Mrs P was responsible for sorting out Mrs P's affairs and contacted BMWFS to explain that Mrs P had passed away. Further discussions then took place between the estate of Mrs P and BMWFS. BMWFS set out the options available to the estate of Mrs P, one of which was for the car to be handed back. It was noted at the time that an additional sum would need to be paid if the car was handed back.

The car was collected in May 2023 and damage beyond what BMWFS considered fair wear and tear was recorded on the car. This resulted in an additional charge of £876.40, which was applied to the £2,062.25 charge for voluntary termination.

Mrs P's husband also sadly passed away in August 2023 and the estate of Mrs P was also then dealing with the estate of Mr P. In April 2025, the estate of Mrs P paid the £2,938.25 that BMWFS said was required to settle the account.

Shortly after, the estate of Mrs P complained to BMWFS about the way that it had handled things since Mrs P had passed away. This included a number of administration issues, the amount that was due to settle the account and that this had been sought despite BMWFS being told that Mrs P had no estate.

Unhappy with BMWFS' response, the estate of Mrs P referred the complaint to our service, where it was considered by one of our investigators. They partially upheld the complaint and explained that BMWFS had agreed to reduce the damage charge amount and honour the £500 BMWFS had previously agreed to pay the estate of Mrs P for the way in which it dealt with them.

The investigator explained that because the estate of Mrs P had brought the complaint, and not Mrs P, they could not comment on whether the £500 was reasonable for any distress and inconvenience caused while BMWFS dealt with the estate of Mrs P. The investigator also explained that they did not ultimately consider there were sufficient grounds to find that BMWFS should not have applied the voluntary termination charge or sought payment of this amount from the estate of Mrs P.

The estate of Mrs P did not accept the investigator's findings and asked for the complaint to be considered by an ombudsman. The estate of Mrs P reiterated a number of points

previously made and in particular that BMWFS should not have sought payment from the estate of Mrs P as there was no value in Mrs P's estate at the time she had passed away. The only asset or value to the estate was the house that Mrs P co-owned with Mr P and this passed to Mr P when Mrs P's died, before Mr P then also passed away.

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'm very aware that I've summarised this complaint in far less detail than the parties and I've done so using my own words. I'm not going to respond to every single point made by all the parties involved. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

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 argument to be able to reach what I think is the right outcome.

Where the evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in the light of the available evidence and the wider circumstances.

Dealing with the estate of a deceased can often be very difficult and involve a lot of administration. This is often made more difficult because of the relationship between those dealing with the estate and the deceased. That is very evident here as the estate of Mrs P includes the children of Mrs P and I fully appreciate that what would have been a very distressing time for the estate of Mrs P dealing with their deceased mothers affairs, would have been made more difficult after the passing of their father around nine months later. The way in which BMWFS dealt with certain things after Mrs P's passing did little to help the estate of Mrs P at this difficult time.

But, although BMWFS could and should have done some things better, I'm not persuaded they acted unreasonably when ultimately seeking payment of a sum due to settle the estate of Mrs P.

The regulated hire purchase agreement that Mrs P entered into in the summer of 2021 was a 49 month agreement. BMWFS set out the options available with the car and the hire purchase agreement and that included Mrs P's family keeping the car and settling the agreement, or the car being handed back and the agreement would end.

The estate of Mrs P decided to hand the car back and I'm satisfied BMWFS did make them aware before the car was handed back that an additional sum would be due. I fully appreciate that it may appear insensitive for BMWFS to seek an additional sum when the car was handed back but there was no requirement under the terms of the contract for BMWFS to simply take the car back and write off any sums that remained due.

It is not unreasonable in my view for BMWFS to seek payment of the sums contractually due under the agreement when the car was handed back from the estate of Mrs P, if there was a value in the estate. Money legitimately owed by a deceased individual can become due from the estate upon their death, if there is sufficient value in the estate to cover those sums. Whether or not there was an estate here with sufficient value to settle the amount BMWFS sought to recover is something I will refer to later.

I have however first considered if there was a legitimate sum due on voluntary termination when the car was handed back. Having considered the sum BMWFS has sought in relation to the voluntary termination liability, this does not seem unreasonable in my view. It is not unreasonable to treat the car being handed back as a voluntary termination and the hire purchase agreement makes it clear that on voluntary termination BMWFS will be entitled to the return of the goods and to half the total amount payable under this agreement, that is £8,236. An additional amount would also be due for any arrears or damage charges if reasonable care had not been taken of the car. Having considered the amounts payable and amounts due when the car was returned, I'm satisfied the amount sought by BMWFS on voluntary termination was a fair and reasonable amount.

BMWFS did charge for various areas of damage that it considered were beyond fair wear and tear and has now agreed to reduce the amount it initially charged the estate of Mrs P. I have considered the remaining area of damage that is effectively still being charged for and this is in my view clearly damage beyond what would be considered fair wear and tear. It would not therefore be unreasonable for BMWFS to charge for this area of damage. BMWFS has however agreed to refund some of that damage charge, which is again reasonable in my view.

The main area of concern in this case appears to be that although the estate of Mrs P has paid the amount BMWFS sought to settle the agreement, the estate of Mrs P has argued that it should not have been required to make this payment and the estate had no assets or value.

I have noted what the estate of Mrs P has said about this and that at the time of Mrs P's passing, the only asset or value was the house Mrs P co-owned with Mr P, which passed to Mr P as he had at that time not passed away. The estate of Mrs P has referred to there being no valid will at the time Mrs P passed away and as there was no estate, probate was not applied for at the time Mrs P passed away.

As part of BMWFS's submissions to our service it has provided copies of its case records and this includes some exchanges and contacts with the estate of Mrs P. I note that the contact notes with the estate of Mrs P refer to being told '*...there is very little estate and several credit cards and loans...*' and there being '*...next to nothing...*' in the estate. When BMWFS did its initial probate check there was no probate registered. BMWFS has accepted that the subsequent probate check it carried out was completed later than it should have been. But at that time probate had been granted and this is what ultimately then resulted in BMWFS seeking payment of the sum due from the estate of Mrs P.

The estate of Mrs P has provided a copy of the *letters of administration with will* from the district registrar for Mrs P. This states the last will and testament of Mrs P was proved and registered before the High Court of Justice. So although the estate of Mrs P had previously referred to no valid will being available, the High Court of Justice was satisfied a valid will was in place for Mrs P at that time. The document also refers to the gross value of Mrs P's estate being £68,023.99 and the net value of the estate being £48,523.99. I have considered what the estate of Mrs P have said about Mrs P's estate only having a value after Mr P passed away, but when considering the *letters of administration with will* from the district registrar it would not be unreasonable for BMWFS to understand there was a value in Mrs P's estate and that was greater than the amount due under the hire purchase agreement.

I realise that there was no probate initially after Mrs P passed away and that had BMWFS conducted a second probate search sooner, this may have again shown there was no probate for Mrs P, if this was before 19 March 2024. But as I am satisfied from the evidence provided that it was reasonable for BMWFS to understand there was a value in the estate, it would not in my view be reasonable to direct BMWFS to refund all of what the estate of Mrs

P paid to settle the agreement, simply because the second probate search was carried out late.

There was an amount legitimately due to settle the agreement and the *letters of administration with will* from the High Court of Justice indicate there was a value to Mrs P's estate. The estate of Mrs P has referred to the '*...probate entry relating to our mother did not represent the estate available in 2022-23...*' and '*...our mothers [sic] estate had no funds at any stage before 2025...*' But if Mrs P's estate had a value when BMWFS completed the second probate search it is again not unreasonable in my view to ask the estate of Mrs P for the outstanding liability, even if that second probate search was late.

The estate of Mrs P have stressed that BMWFS was attempting to recover funds from the estate of Mr P, not Mrs P, but I have not seen sufficient evidence of that or that there was ultimately no value to Mrs P's estate when the second probate search was completed. It is essentially for these reasons why I do not consider BMWFS has ultimately acted unreasonably or unfairly by seeking payment of the sum due to settle the agreement from the estate of Mrs P.

As referred to above, and accepted already by BMWFS, the way it dealt with the estate of Mrs P could and should have been better. I appreciate that BMWFS would have been required to send correspondence relating to the account after Mrs P had passed away but this should not have been addressed to the *deceased* or the *family of the deceased*. The deceased is clearly not responsible for matters and being a family member of the deceased does also not make them responsible. BMWFS has apologised for the way that it has dealt with certain aspects of this case and agreed to pay £500 to the estate of Mrs P for any distress and inconvenience caused.

The estate of Mrs P has brought the matter on the deceased consumer's behalf, as the persons authorised in law to do so. As the investigator has already set out, we can't compensate an executor for any impact incurred by them personally, when representing the deceased consumer or the estate. But I think it is worth noting that even if I did have the power to direct BMWFS to make an additional payment to the estate of Mrs P for the distress and inconvenience caused, I consider the £500 already offered by BMWFS to be reasonable in the circumstances here.

My final decision

I appreciate my decision here will likely come as further disappointment to the estate of Mrs P but for the reasons explained I am only partially upholding this complaint against BMW Financial Services (GB) Limited trading as Alpha Financial Services.

If it has not already done so, BMWFS should refund the estate of Mrs P the amount of £280.86 in respect of the overpaid damage charges. Interest at 8% simple per year should be added to this sum from the date of payment until the date of settlement. BMWFS should also make a further payment of £500 in respect of the way it handled things with the estate of Mrs P.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mrs P to accept or reject my decision before 1 April 2026.

Mark Hollands
Ombudsman