

The complaint

Mr W's complaint relates to problems he had with a car supplied to him by BMWFS under a hire-purchase agreement.

What happened

The facts of this case are familiar to both sides. With that being the case, I don't intend to repeat them in detail here. Instead, I'll provide a summary.

Mr W entered into a hire purchase agreement with BMWFS in October 2024 to purchase a used car. The cash price of the car was £32,990. The total amount due under the agreement, including interest and charges, was £43,131.64. This was to be repaid through 48 monthly instalments of £520.68, followed by an Optional Final Payment – should Mr W wish to purchase the car - of £17,639.

The day after Mr W took possession of the vehicle, he notified the selling dealership (who I'll refer to as 'SD') about a creaking noise coming from the front right suspension when turning right at low speeds.

Then, a few days later, Mr W reported additional problems he was experiencing with the vehicle to SD. These were as follows:

- Tyres on the front are different to the rear, and none of them are star rated which is what BMW recommend for their xDrive vehicles.
- The creaking noise also occurs when the weight transfers from reverse to forward.
- The lower metal shield – below the rear bumper – had been cut open to allow space for a tow bar. Mr W said he had known prior to the sale that the vehicle had been for towing he would not have proceeded to purchase the car.

Due to the distance between Mr W and the SD, it was agreed Mr W could book the vehicle in to his local BMW garage. It is my understanding that, in arranging this booking, Mr W was advised that there was an outstanding recall notice related to the EGR cooler and the relevant works were undertaken at the manufacturers expense. The garage conducted a vehicle health check (which I'll refer to as 'Report 1') which found two items which required immediate attention:

- Near side track rods/steering arms to be replaced; and
- Offside Near side track rods/steering arms to be replaced

Report 1 also noted the following items as advisories:

- Rear brake pads low.
- All four tyres to be replaced to same make and star rating.
- Transfer box if fault is still present after tyres are replaced.

The estimated repair cost for these works was around £3,000.

On 12 November 2024, Mr W took the vehicle to another garage for a second opinion. The garage conducted an inspection of the vehicle and produced an estimate for works totalling, including parts and labour, over £1,000 (I'll refer to this as 'Report 2'). The recommended works included:

- Replacement left and right tie rods; and
- Transfer box oil; and
- Drain plug washer.

On 13 November 2024, Mr W complained to BMWFS about the quality of the car. Specifically, Mr W raised concerns about:

1. Juddering sensation when turning at slow speeds.
2. Creaking from suspension.
3. Incorrect/incompatible tyres fitted prior to sale;
4. Hidden aftermarket tow bar fitted prior to sale without being advertised or brought to his attention.

In doing so, Mr W set out his ideal resolution "*would be for [SD] to...agree with rectifying the front track rod ends, getting the transfer box oil changed, and a contribution towards replacing the tyres with ones that are compatible with the BMW xDrive system to prevent the current ones causing further transmission damage*".

In the months that followed it seems there was quite a bit of back and forth between the parties regarding this matter. Then, in March 2025, BMWFS decided to instruct an independent third party to inspect the vehicle and "*clarity the faults and provide an impartial outcome*". This firm conducted its inspection and produced its report later that month (I'll refer to this as 'Report 3').

In early April 2025, in the absence of a resolution from BMWFS, Mr W referred his complaint to this service.

Whilst the complaint was awaiting allocation to one of our investigators BMWFS, relying primarily on Business D's report, issued its final response to the complaint in early May 2025. In short, BMWFS said it was "*not disputing the presence of issues with [Mr W's] vehicle, however with no formal diagnosis made, [it was] unable to offer any assistance*". In other words, it did not uphold the complaint. It did, however, offer a payment of £200 in recognition of the length of time it had taken to reach that position – and the distress and inconvenience caused as a result.

As Mr W remained unhappy, our service proceeded with its investigation. In June 2025, one of our investigators looked into matters and issued their opinion. In short, the investigator said that the vehicle was not of satisfactory quality at the point of supply. But, as BMWFS had not yet had a chance to effect repairs, the investigator said the fairest remedy was for BMWFS to arrange for (and cover the cost of) the relevant repairs – as well as refund the additional expenses Mr W incurred as a result of the inherent quality issues with the car upon the provision of invoices for the amount he paid for the health checks/diagnostic reports. The investigator also recommended BMWFS pay a further amount of £100 for any distress or inconvenience that's been caused due to the faulty goods in addition to the £200 it has already offered.

Mr W provided some additional comments but seemed to broadly agree with the investigator's opinion.

There was quite a lot of back and forth between the investigator, BMWFS and Mr W in the months that followed as all parties were attempting to establish the specific costs involved in the investigators proposed resolution.

In November 2025, BMWFS said that it would look to assist with tie rods (at a cost of £557.72) and pay £100 compensation for the distress and inconvenience in-line with the investigator's recommendations. But it said all other items outlined were fair wear and tear and, therefore, it said it "*cannot agree with [the investigator's] opinion in its entirety*".

As an agreement couldn't be reached, the complaint was passed to me to decide.

In March 2026, I issued a provisional decision. Here is what I had to say:

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 agree with the investigator that the complaint should be upheld. However, I differ in how I think matters should be put right. I'll explain why.

However, before I do, I'm aware that I've summarised this complaint above in less detail than it may merit. 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. I will, however, refer to those crucial aspects which impact my decision.

The agreement in this case is a regulated consumer credit agreement. As such, this service is able to consider complaints relating to it. BMWFS was also the supplier of the goods under this type of agreement, and responsible for a complaint about their quality.

The Consumer Rights Act 2015 (CRA2015) is of particular relevance to this complaint. It says that under a contract to supply goods, there is an implied term that "the quality of the goods is satisfactory". The CRA2015 says the quality of the goods includes their general state and condition and other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability can be aspects of the quality of goods.

BMWFS did not supply Mr W with a new car here. The car was just over five years old and old and had travelled just under 77,800 miles at the point of supply. And while it was certainly not an inexpensive car – the price was a good deal less than it would have been new.

So, I think it is fair to say that a reasonable person would expect that it would not necessarily perform as well as a new car. And there would be a risk – if not an inevitability - of wear and repairs arising from previous use and maintenance by former users. In other words, there's a greater risk this car might need repair and/or maintenance sooner than a car which wasn't as road-worn.

In my view, there is little doubt that Mr W has experienced problems with the car. This has been well evidenced by, amongst other things, information from Report 1, Report 2, Report 3 and Mr W's detailed and credible testimony.

In saying this, I recognise Report 3 wasn't able to identify some of the problems Mr W had reported with the car. But I'm persuaded that there were at least some of the reported faults present based on all of the available evidence.

But the simple existence of faults in itself isn't enough to hold BMWFS responsible for repairing the car or accepting its rejection. The legislation says that this will only be the case if the fault was present or developing at the point of supply.

Under the CRA2015, where a fault occurs within the first six months, it is assumed that the fault was present or developing at the point of supply and it's generally up to the business to put things right. After six months the burden of proof is reversed and it's up to the consumer to show that the fault was present or developing at the point of supply.

Mr W had only had the car for only a matter of days when he first raised his concerns about it to SD – and he had it for less than a month when he first raised it to BMWFS. As I've said, legislation would encourage us to assume that if a car developed a fault in the first six months it was likely to have been there from the point of supply. With that being the case – and noting the low level of mileage Mr W covered in that time, it seems likely the issues Mr W raised were present or developing at the point of sale.

I am persuaded, on balance, that it's more likely than not the car was defective in some way that resulted in some of the problems Mr W has experienced. I've not been presented with sufficiently persuasive evidence from BMWFS that demonstrates there wasn't a fault or that that there was a fault, but it developed after Mr W took possession of it.

Notwithstanding the age and mileage of the car, I don't think a reasonable person would expect to experience the kind of problems Mr W reported almost immediately after taking possession of it. So, I am satisfied some of the problems Mr W has reported with the vehicle render it of unsatisfactory quality.

Further, I understand the car was subject to an outstanding recall notice for the EGR system at the time it was sold to Mr W. So, the car was sold with a defect. I think that this lends further weight to notion that the car wasn't of satisfactory quality at the point of sale¹.

With all of that being the case, it follows that I also intend to conclude that BMWFS hasn't treated Mr W fairly in rejecting his claim. So, I've turned to look at the potential remedies under the CRA2015.

The CRA2015 sets out a range of potential remedies under section 19(3), as follows:

- (a) the short-term right to reject (sections 20 and 22);*
- (b) the right to repair or replacement (section 23); and*
- (c) the right to a price reduction or the final right to reject (sections 20 and 24)*

Under Section 22(3) of the CRA2015 a consumer has a short-term right to reject goods not conforming to contract within 30 days. The requirement under the Act is that the right to reject "is exercised if the consumer indicates to the trader that the consumer is rejecting the goods and treating the contract as at an end. The indication may be something the consumer says or does, but it must be clear enough to be understood by the trader".

¹ As I understand it, the relevant works – as per the recall notice – have been undertaken at no cost to Mr W by the manufacturer. Therefore, aside from making the point that it adds to the overall picture of a car of unsatisfactory quality, I will make no further comment regarding the recall notice in this decision as there is nothing further I would direct BMWFS to do in this regard.

I note Mr W did contact both SD and BMWFS within 30 days to express his concerns about the vehicle. However, I have seen no evidence that Mr W sought to reject the car on this basis. Instead, Mr W appeared to be willing to work with SD and BMWFS to allow repairs to take place as remedy.

With that being the case, I do not think the conditions set out in Section 22(3) of the CRA2015 have been met. So, I don't think Mr W's right to exercise short-term rejection is in play here.

That would mean Mr W would be entitled to exercise his section 23 right to seek repair or replacement. Here a business has one opportunity to repair an identified fault that makes a car of unsatisfactory quality.

Like the investigator, I'm satisfied that BMWFS hasn't had an opportunity to carry out a repair and it did nothing wrong in refusing to carry out a repair before it did, noting this matter is not clear cut.

Taking everything I've seen so far into account, I consider it would be fair and reasonable for BMWFS to have the opportunity to arrange for appropriate repairs here (or reimburse Mr W for any repairs he has already paid for). These repairs should be carried out within a reasonable time, at no cost and with as little inconvenience as possible to Mr W.

In the wake of the investigators opinion, BMWFS asked Mr W to obtain a quote for repairs. Mr W duly obtained an Estimate of Works from the garage which produced Report 2. It is my understanding that it is these repair costs that Mr W feels BMWFS is liable for.

Having spent time looking through the Estimate of Works, I do not think BMWFS would be liable for all the repairs stated. I'll explain which repairs I think BMWFS is liable for, and why, below. For ease of reference, I will use the same headings as in the Estimate of Works.

Replacement of left and right tie rods

The Estimate of Work sets out the total cost of replacing the left and right tie rods. It estimates this figure to be £557.72.

As I understand it, in response to the investigator's findings, BMWFS has agreed to cover this cost which feels fair in the circumstances. With that being the case, there is no need for me to comment on it further here. I will, however, include it in the section below titled 'Putting things right' for clarity.

Alignment

The Estimate of Work shows a total cost of £91.05 for various checks to be undertaken, including a wheel alignment check, recalibration of steering angle sensor, suspension check (for play/condition) and tyre pressure.

I am unclear how at least some of these checks relate to the faults Mr W has reported or if they were necessary as a result of the inherent defects with the vehicle.

At this stage, I do not have sufficient evidence to safely conclude that BMWFS are liable for the cost of these items. I invite Mr W to provide more information, supported by expert evidence if possible, regarding these works and their relevance to the reported problems. I will review any new evidence in this regard before I finalise my determination.

But, in the absence of such evidence, I do not think BMWFS need to cover this cost.

Transfer Box Oil Change and Drain Plug Washer

It is my understanding that these items relate to the juddering sensation when turning at slow speeds that Mr W reported. As the investigator noted, neither Report 1 or Report 2 refer to a juddering sensation. Although Report 1 states “transfer box if fault is still present after tyres are replaced”. Here I assume the ‘fault’ referred to is the juddering, although it is not clear.

So, I turn to Report 3 which says:

“I did experience a slight transmission judder intermittently whilst manoeuvring. I couldn’t identify the fault presented, [Report 1] mentions transfer casing oil replacement, I am unable to confirm if this would cure fault, it would require further investigation and possible stripping of components. It could possibly be a process where oil was changed to see if fault was cured”.

On my reading of this, the engineer appears to accept that there is a fault – noting they experienced a slight judder and discuss possible remedies for the fault – even though they couldn’t identify it.

Bearing in mind the timeline, it seems likely that this fault was present or developing at the point of sale. With that being the case, I think BMWFS are liable for the cost of effecting repairs. So I think BMWFS should cover the cost of the transfer box oil change and drain plug washer totalling £188.41.

Although the engineer is unable to propose a remedy, they seem to accept that changing the transfer box oil may resolve matters. I do note the engineer says that further investigation would be required to confirm if this would cure the fault. However, as a start point, I think this potential remedy seems a sensible way forward noting it does not seem particularly invasive or costly. However, I invite further comment from either party in this regard.

Towbar

Neither Report 1 or Report 2 comment on the issue of the towbar. However, Report 3 notes that the “rear trim edge requires rework” as a result of modification work to the rear bumper to allow for an aftermarket tow bar system to be retrofitted.

What’s more, Mr W has provided clear and consistent testimony – supported by photographs – that the work has left a serrated edge. As I think this speaks to a problem with the bodywork which was more likely than not present prior to the point of sale, I think it is fair that BMWFS cover the cost of repairs.

Mr W has obtained an Estimate of Works which quotes a figure of £258.86 to put this right. In the absence of anything to suggest this quote is disproportionate, I intend to direct BMWFS to cover this cost.

Tyres

Report 3 finds that “the vehicle is designed and set up with the manufacturers specific tyres, deviating from this can change the characteristics of the vehicle and in [the] worse [sic] case scenario effect the safety systems that are put in place”.

On my reading of this, the engineer seems to suggest that the tyres installed on the vehicle have the potential to impact the safety of the vehicle. This speaks to an inherent defect for which BMWFS would be liable to put right.

It is my understanding that Mr W has (quite wisely) arranged for new tyres – which match the specification of the vehicle – to be installed. He has provided two invoices totalling £1,120.56 for this work. This appears to be broadly match figure Mr W was quoted in the Estimate of Works. So, in the absence of evidence to suggest otherwise, I think it is fair for BMWFS to reimburse Mr W this expense.

Brake Pads

Report 1 includes an advisory regarding the rear brake pads. And the Estimate of Works includes an estimated repair cost of £162.37 to repair the rear brake pads and rear pad sensor. It seems Reports 2 and 3 are silent on this issue.

In considering this matter, I've taken into account the overall age and mileage of the car. I've already said that I'd expect a used car to have a degree of wear and tear. In particular, I wouldn't expect component parts on a used car to be in "as new" condition. It's reasonable to expect a used car to require replacement parts and/or repairs sooner than a new or nearly new car.

I accept that the brake pads and brake discus may have been showing signs of wear at the point of supply, but this doesn't mean it is faulty or that the car isn't of satisfactory quality such that BMWFS would be liable for their repair. There's no evidence that the brake pads or discs had inherent defects. Indeed, Report 1 only reports it as an 'advisory' – meaning that it was something that needed to be kept under review and rectified at a later date.

I think this all points to fair wear and tear and, therefore, it is an expense which goes hand in glove with running a car. With that being the case, I do not find BMWFS are liable to reimburse Mr W the cost of these repairs.

Indirect costs

I think BMWFS is also liable for any out-of-pocket costs Mr W incurred – and additional inconvenience Mr W experienced - as a result of the issues which, in my view, flowed from being provided a car of unsatisfactory quality.

As I understand it, Mr W incurred a cost of £120 obtaining the initial diagnostic check. BMWFS agreed to reimburse this sum. To date I am unsure if this action has been taken but, if it has not, I intend to direct BMWFS to do so.

Further, as I've said, Mr W obtained an Estimate of Works at the request of BMWFS. I am unclear if he paid for this and, if so, how much. I would invite Mr W to provide an invoice setting out any costs he incurred in obtaining this estimate. Upon receipt of such evidence, I intend to direct BMWFS to reimburse Mr W.

Finally, Mr W has clearly spent considerable time dealing with this matter over a prolonged period of time. I think he has made more than a reasonable effort to sort things out. With this being the case, I think a further £100 (in addition to the £200 offered by BMWFS) is fair and reasonable in the circumstances. It is my understanding that BMWFS accepted this aspect of the investigators proposed redress.

Before I summarise how I think BMWFS should put things right, I will firstly address a separate strand of Mr W's complaint.

Misrepresentation

On my reading of the complaint, there is an allegation the vehicle was misrepresented to Mr W because he was not told it had previously had a tow bar/towing history. In considering this aspect of the complaint against BMWFS I note by way of Section 56 of the Consumer Credit Act 1974 that it is responsible for the actions of a credit broker arranging the finance on its behalf.

If Mr W was given a false statement of fact or law, and if that false statement was a significant reason why he entered into the agreement, I may think the agreement – or the car - had been misrepresented to him. There may also be, in limited circumstances, a misrepresentation by omission – that is, a failure to disclose something material to Mr W.

I've seen a screenshot of the original advert, and I can't see that it mentions the presence (or absence) of a tow bar and/or towing history. But, in any event, Mr W accepts that he wasn't advised by BMWFS (or SD) that the car didn't have a towing history prior to entering into the agreement. So, I'm satisfied that there was no false statement of fact by BMWFS (or SD).

With that being the case, I've gone on to consider whether by omitting to say the car had previously had a towbar and/or towing history constitutes a misrepresentation by BMWFS (or SD). In particular, I've thought about whether BMWFS (or SD) were obliged to give Mr W information about the presence of a towbar and/or the towing history of the car.

Generally, however, a misrepresentation cannot be made by silence. There is no overriding duty, for example, on a salesperson to explain all the details of a product to a prospective buyer. There are exceptions of course. I do not believe it would have been fair for the salesperson to keep quiet about the previous towbar/towing history, for example, if they had known it was an important issue for Mr W. And, if there had been any indication that Mr W was acting under a misunderstanding, I would have expected the salesperson to correct that misunderstanding.

But I have not seen evidence to suggest BMWFS (or SD) was made aware this was an important issue for Mr W before he entered into the agreement. With that being the case, I am not persuaded that there was a misrepresentation by omission.

With that being the case, I do not uphold this aspect of Mr W's complaint.

I will now go on to summarise how I provisionally think BMWFS needs to put things right.

Putting things right

My provisional decision is that I uphold this complaint. To settle it, I provisionally find BMWFS should:

- 1. Cover the cost of replacing the left and right tie rods - £557.72; and*
- 2. Cover the cost of the transfer box oil change and drain plug washer - £188.41; and*
- 3. Cover the cost of rectification works to the rear trim - £258.86; and*
- 4. Reimburse Mr W for the cost of replacing the tyres - £1,120.56; and*
- 5. Reimburse the cost Mr W incurred in arranging the first set of diagnostics if it has not already done so - £120; and*

6. *Reimburse Mr W for the cost of obtaining the Estimate of Works subject to receipt of satisfactory evidence, and*
7. *Pay interest on the amounts in 4, 5 and 6 (subject to receipt of satisfactory evidence) above, calculated at an annual rate of 8% simple from the date of each payment until the date it pays this settlement; and*
8. *Pay a further £100 compensation (in addition to the sum offered in its final response) in recognition of the distress and inconvenience caused to Mr W.*

**If BMWFS considers that it is required by HM Revenue & Customs to withhold income tax from that interest, it should tell Mr W how much it's taken off. It should also give Mr W a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.*

Responses to my provisional decision

I invited both parties to provide further submissions before I finalised my determination.

Mr W provided some additional comments but, ultimately decided that he was “*happy to proceed with the resolution...and the costs suggested*”. Mr W did go on to say that, “*alternatively, if Alphera want to take the vehicle and settle the finance themselves they are more than welcome, providing this does not affect my credit score or cost me anymore money*”.

BMWFS said it was willing to accept most of the outcome. However, it did not agree that it was liable to reimburse the cost of replacing the tyres. BMWFS said:

“Mr W purchased his car through the broker and finance provider ALPHERA Financial Services. The criteria applied in this case differ from those that would apply had he purchased and financed the vehicle directly through a BMW dealership. It is therefore not reasonable to hold ALPHERA or the dealership to the same standards as the BMW Approved Used Car (AUC) scheme, as they operate under different frameworks.

Mr W bought a used car with a significant number of miles on the clock, which would have been maintained by previous owners, not ALPHERA Financial Services. It is not reasonable to expect ALPHERA to bring the vehicle up to BMW AUC standards when the purchase was not made through an authorised BMW retailer, or BMW financial services”.

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've also considered what has been said in response to my provisional decision. Having done so, I am not minded to depart from the conclusion I reached – or the redress I proposed - in my provisional decision.

Both parties agree with the majority of my provisional decision. I need not comment further on those areas of agreement other than to endorse what I had to say in my provisional decision.

Instead, I will focus on the only remaining item of disagreement which is around BMWFS' liability to reimburse Mr W for the cost of the replacement tyres.

I acknowledge and understand the point BMWFS makes here. However, on balance, I am persuaded that tyres fitted at the point of supply which can potentially, as Report 3 suggests, “change the characteristics of the vehicle” or even potentially impact safety systems would be considered of unsatisfactory quality. I do not think a reasonable person – irrespective of the age or mileage of the vehicle – would expect this kind of problem.

In my view, the available evidence – principally the findings of Report 3 – points to the tyres being an inherent defect with the vehicle. And, in the absence of sufficiently persuasive evidence to suggest otherwise, I think it is fair for BMWFS to reimburse Mr W this expense.

With that being the case, I’ll turn to how I think BMWFS should put things right.

Putting things right

To settle this complaint, BMWFS should:

1. Cover the cost of replacing the left and right tie rods - £557.72; and
2. Cover the cost of the transfer box oil change and drain plug washer - £188.41; and
3. Cover the cost of rectification works to the rear trim - £258.86; and
4. Reimburse Mr W for the cost of replacing the tyres - £1,120.56; and
5. Reimburse the cost Mr W incurred in arranging the first set of diagnostics if it has not already done so - £120; and
6. Reimburse Mr W for the cost of obtaining the Estimate of Works subject to receipt of satisfactory evidence, and
7. Pay interest on the amounts in 4, 5 and 6 (subject to receipt of satisfactory evidence) above, calculated at an annual rate of 8% simple from the date of each payment until the date it pays this settlement; and
8. Pay a further £100 compensation (in addition to the sum offered in its final response) in recognition of the distress and inconvenience caused to Mr W.

*If BMWFS considers that it is required by HM Revenue & Customs to withhold income tax from that interest, it should tell Mr W how much it’s taken off. It should also give Mr W a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

For the reasons I’ve set out here and in my provisional decision, my final decision is that I uphold Mr W’s complaint. To resolve matters BMW FINANCIAL SERVICES (GB) LIMITED trading as ALPHERA Financial Services must take the steps I’ve set out above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr W to accept or reject my decision before 21 May 2026.

Ross Phillips

Ombudsman