

## complaint

Mr B complains about how BMW Financial Services(GB) Limited ("BMWFS") has administered and managed his debt with it. He is concerned that he may have been over charged interest and that the new monthly payments set (following his decision to make part repayments) were incorrect.

## background

Mr B entered into a hire purchase agreement with BMWFS in June 2018 for £30,636.19 to acquire a new car. Under the terms of the HP agreement Mr B undertook, everything else being equal, to make 35 monthly debt repayments of £491.85 followed by 1 debt repayment of £16,113.02 – making a total repayable (excluding a £5,000 advance payment) of £33,327.77 at an APR of 3.9%.

Mr B, as he was entitled to do, made the following debt repayments instead.

Date	£	Type
30/07/18	£491.85	monthly direct debit
29/08/18	£491.85	monthly direct debit
27/09/18	£5,000.00	part repayment/settlement
01/10/18	£491.85	monthly direct debit
30/10/18	£330.70	monthly direct debit
31/10/18	£8,000.00	part repayment/settlement
30/11/18	£62.21	monthly direct debit
31/12/18	£62.21	monthly direct debit
31/01/19	£62.21	monthly direct debit
20/02/19	£16,371.59	full repayment/settlement
Total	£31,364.47	
Capital	£30,636.19	
Interest	£728.28	

The monthly payment of £330.70 and £62.21 was set by BMWFS after Mr B made partial debt repayments of £5,000 and £8,000 respectively.

Mr B's complaint was considered by one of our investigators who concluded that he wasn't persuaded that BMWFS had done anything wrong. He also said that our service's role isn't an accounting one.

Mr B disagreed with the investigators conclusion and so his complaint was passed to me for review and decision.

I issued a provisional decision on this case in February 2021. In summary I said:

*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 can confirm that I'm not persuaded that this complaint should be upheld.*

*To explain why, it might help if I set out our starting position on complaints of possible accounting errors generally; which is that the Financial Ombudsman Service doesn't provide an account checking service.*

*Mr B has provided his own calculations. He's clearly put a lot of thought effort and time into these and, understandably, holds them in great store. But my difficulty is that I've no reason to consider Mr B's calculations as being any more or less correct than the statement of account and calculations provided by BMWFS.*

*In other words, I can't rely on Mr B's calculations or attach any evidential weight to them. What's needed here, in effect, is a forensic check of Mr B's account by an independent party. If Mr B remains of the view that BMWFS statement of account and calculations are wrong, and he has suffered financially as a result, it's for him to arrange for the account to be audited by a suitably qualified and independent party, and the evidence of the audit could then be used as the basis for a new complaint, but not as the basis for this one.*

*I say that the evidence of an audit could then be used as a basis for a new complaint because BMWFS would need to be presented with the finished audit first and be given the opportunity to consider and respond to it before we could get further involved.*

*Mr B would have to meet the cost of the audit, albeit if errors were found that were to Mr B's detriment, we would then expect BMWFS to reimburse any reasonable cost of the audit as well as taking any corrective action the audit revealed to be necessary. But as things stand, the evidence available to me to consider doesn't persuade me that Mr B has suffered a loss as result of BMWFS' management and administration of his debt.*

BMWFS didn't respond to my provisional decision.

Mr B responded to my provisional decision to say he was disappointed with it. In summary he said:

- I hadn't addressed his complaint appropriately
- after 20 months I had simply concluded "*we can't really tell* [if there have been any accounting errors on the part of BMWFS and that he] *should get an independent audit*"
- he won't get an independent audit given the sums involved
- the issue isn't one of accounting, but one of correct application of consumer finance law, which manifests itself in the numbers
- he expected our service to have been able to check BMWFS' various calculations and rule accordingly, but we haven't done so
- figures provided by BMWFS, following one of his partial repayments, are "*clearly not consistent with a reducing loan subject to a fixed rate of interest* [and this should ring] *alarm bells*"

### **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I accept that Mr B is complaining that in his view BMWFS might have failed to apply correctly his rights under the Consumer Credit (Early Settlement) Regulations 2004. But as I said in my provisional decision it's for Mr B to provide evidence from an independent third party that this is the case and this will, by its very nature, involve an accounting check or audit.

Furthermore, I would add that even if our service was able to carry out an accounting check or audit this would be restricted to what Mr B ended up paying under the agreement and not what he might have ended up paying had he not settled his loan in full in February 2019.

Finally, I would add that had there been obvious errors in BMWFS' administration and management of Mr B's debt then I might have come to a different conclusion. But and I appreciate that this will be of little comfort to Mr B, I can't see that there have been any obvious errors on the part of BMWFS.

I appreciate Mr B will be disappointed but having considered his response to my provisional decision I see no reason to depart from it and I now confirm it as final.

### **my final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 1 April 2021.

Peter Cook  
**Ombudsman**