

## The complaint

Mr M has complained about the way BMW Financial Services (GB) Limited (BMWFS) administered a hire purchase agreement.

## What happened

In June 2021 Mr M entered into a four-year hire purchase agreement with BMWFS to acquire a new car. The car cost around £27,000 and Mr M was due to pay it back with monthly payments of around £320 followed by an optional final payment of around £12,000.

Mr M said he contacted BMWFS several times to ask to make regular overpayments towards the agreement. He said he was told when entering into the agreement this was possible. Mr M said BMWFS told him its systems can't handle regular monthly overpayments and that he'd need to contact it every time he wished to do so. He also said BMWFS told him the overpayment needed to be more than his usual monthly payment. Mr M said there was no mention of this on the agreement. He said he's been impacted by having to pay more interest than he should have done. He complained to BMWFS.

BMWFS said in its final response that it was unable to accept an increase in rentals of £100 per month in order to reduce the term. It said it carried out checks at the point of supply to make sure the monthly rental amount was affordable. It also said that any overpayments received would be automatically refunded. It said that its systems wouldn't be able to establish the reason for the overpayment and with regular small amounts it couldn't calculate the reduction in term or monthly rental amount. It said it offered the option to make partial early repayment (for an amount over the normal payment) and it gave Mr M details of who to speak to about that.

Mr M referred his complaint to the Financial Ombudsman and our investigator looked into things for him. She didn't think BMWFS had acted unfairly and thought it legitimately had grounds to decide how to accept overpayments.

Mr M didn't agree. He said BMWFS had not adhered to the Financial Conduct Authority's (FCA) rules on treating customers fairly. He said it's not fair BMWFS won't allow him to do something that is an option on the agreement.

I issued a provisional decision that said:

*I want to acknowledge I've summarised the events of the complaint. I don't intend any discourtesy by this – it just reflects the informal nature of our service. I'm required to decide matters quickly and with minimum formality. But I want to assure Mr M and BMWFS that I've reviewed everything on file. And if I don't comment on something, it's not because I haven't considered it. It's because I've concentrated on what I think are the key issues. Our powers allow me to do this.*

*Mr M acquired the car under a hire purchase agreement. Our service is able to consider complaints relating to these sorts of regulated consumer credit agreements.*

*I note the agreement sets out that Mr M had the right to repay all or part of the credit early at any time. And it gave Mr M instructions on how to do that i.e., in writing; by phone; or email. The agreement sets out the right to repay in part doesn't apply to the optional final repayment which may be paid early but only in full. And it sets out that payment can be made by BACS/CHAPS or by cheque.*

*I also note the Consumer Credit Act 1974 has provisions for debtors to complete payments ahead of time. And that debtors can at any time discharge part of their indebtedness by providing notice to the creditor [and] by making the payment within a set period.*

*I thought it had been made more difficult than it ought to have been for Mr M to make overpayments. So I asked our investigator to contact BMWFS to ask some questions and to see what options Mr M has.*

*BMWFS has explained to us:*

- *Mr M can set up a standing order through his bank, but he'd need to notify the BMWFS customer service team. And those payments would count as partial early repayments.*
- *It was unable to accept funds without notification. If it didn't receive notification, it would automatically return the funds.*
- *Mr M is able to make a partial early repayment for any amount as long as it makes a reduction to the term or monthly payment.*
- *The agreement has a contracted amount that Mr M is required to pay. Otherwise he can make overpayments, but he'd need to discuss this with the relevant team.*

*The information we've received from BMWFS seems to be at odds to the information given to Mr M. I think Mr M was given conflicting information, and based on what we've not been told, the information looks to have been incorrect as well.*

*Based on what BMWFS has said, Mr M should be able to set up a standing order, as long as it receives notification. I'm not sure why he wasn't told this initially. It seems like a fair way to resolve things and is in line with what Mr M originally requested.*

*I think a mistake was made by BMWFS and I think it was made harder than it should have been for Mr M to make overpayments. I've thought about how I'd propose to put things right.*

*I arranged for our investigator to ask Mr M if he'd been putting money aside and he's explained he has a car fund where payments have been sent. We asked why Mr M hadn't been contacting BMWFS every few months in order to make overpayments that would have been over and above the monthly repayment (as per BMWFS' previous instruction). Mr M explained he didn't think that was a reasonable solution. He said he shouldn't have had to take time out of his day to arrange the overpayment every few months. While I take the point, I do have to bear in mind that when deciding how to put things right where a firm has made a mistake, there's an expectation for the customer to have mitigated the problem. That is to have taken steps to minimise the impact of the business' mistake. While I appreciate that making a phone call every few months would have led to some minor inconvenience, it was possible for Mr M to do that. And it would have ultimately led to the outcome he was seeking – either a reduction in term or a reduction in the monthly payment, albeit at a slightly slower rate.*

*We also asked what Mr M would seek if BMWFS' systems physically wouldn't have accepted the overpayments in the way Mr M sought. Mr M didn't set out specifically what he was seeking. But he highlighted detriment the system may have caused customers. As I'm sure Mr M will appreciate, I'm considering the individual circumstances of his complaint in*

*this decision. In any event, it seems as though BMWFS will be able to accept the overpayments at least going forward.*

*I think the way BMWFS handled things has caused distress and inconvenience to Mr M. He entered into communication with BMWFS for a few months in mid-2022 about setting up a £100 overpayment. And I can see he contacted it again around a year later, and spoke to it over a few months. If Mr M had been putting money aside from 2022 onwards, it's not clear why there wasn't a lump sum he could have paid at least by the time he contacted it again in 2023. But I think he was put to unnecessary inconvenience for a few months in 2022, and again in 2023. While Mr M may claim there's been a financial loss as a result of BMWFS' actions, I'm not intending to direct BMWFS to apply any associated reduction in interest towards the hire purchase agreement. As I said above, I do have to bear in mind that Mr M could have taken steps to minimise the impact of the problem. However, I think it's fair BMWFS pay compensation to reflect those periods I've mentioned.*

*I'm going to propose BMWFS pays Mr M £400 compensation. I think this is a fair reflection of the repeated errors and misinformation given by BMWFS that led to Mr M having to put in repeated effort to sort things out. I think it recognises the mistake has caused arguably significant inconvenience that, in total, lasted many weeks or months. In the round, I think the compensation award is broadly a fair way to put things right.*

Mr M had nothing to add, and I can't see we received a response from BMWFS.

### **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.

Seeing as though I can't see we've received anything materially new to consider, I see no reason to depart from the conclusions I reached in my provisional decision.

### **My final decision**

My final decision is that I uphold this complaint and direct BMW Financial Services (GB) Limited to pay Mr M £400 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 6 June 2024.

Simon Wingfield  
**Ombudsman**