

The complaint

Mr Y has complained BMW Financial Services (GB) Limited repossessed his car for breach of the credit agreement but did not communicate properly with him. This has left him with a debt to repay, and a default on his credit record.

What happened

In May 2023 Mr Y was stopped by the police whilst driving his car. As the car was being driven without insurance, the car was impounded and Mr Y was fined. Mr Y received the car back after taking out insurance.

BMW FS contacted Mr Y as there is a requirement under the terms of his finance agreement that the car was comprehensively insured. They requested he provide them with a copy of the insurance certificate. Mr Y didn't provide this as emails sent by BMW FS were sent to an incorrect address. Letters were sent to Mr Y's home address providing firstly a default notice and then a letter confirming termination of the agreement.

After his car was repossessed and sold at auction, Mr Y was left with nearly £5,000 to repay. As BMW FS provided Mr Y with a default notice, a default was then recorded on his credit record.

As Mr Y was unable to get BMW FS to agree with him, he brought his complaint to the ombudsman service.

Our investigator reviewed the evidence provided by BMW FS along with Mr Y's testimony. She quoted the relevant terms of Mr Y's finance agreement which she believed showed BMW FS could take the actions they did. Although she noted BMW FS initially sent emails to an incorrect email address, she was aware that letters were sent to Mr Y's home address and he never responded to those either.

Mr Y disagreed with this outcome. He's asked an ombudsman to consider his complaint.

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.

Having done so, I've reached the same outcome as our investigator. I'll explain why.

Where there is a dispute about what happened, I have based my decision on the balance of probabilities. In other words, on what I consider is most likely to have happened in the light of the evidence.

When considering what is fair and reasonable, I'm required to take into account: relevant law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the relevant time.

The heart of this complaint is very simple. Mr Y believes as BMW FS's communication with

him was inadequate, they should remove the default from his credit record and he shouldn't have to repay to outstanding amount following the sale of his car at auction.

Firstly, there is no dispute that at the time Mr Y's car was stopped by the police, he wasn't holding any valid insurance. I appreciate what he's said that he was unaware the car insurance wasn't set to automatically renew and I believe this may well have been an error. I'm also aware that he took out car insurance effective from 19 May 2023. Our investigator shared the relevant terms and conditions of Mr Y's credit agreement with him. There's no dispute what these state. Mr Y doesn't dispute that he was therefore in formal breach of the terms and conditions of his car finance agreement with BMW FS.

This, therefore, makes it baffling that Mr Y took no action himself to share details of his new car insurance with BMW FS.

Around this time I can see Mr Y was having text conversations with the sale department as his current agreement would be finishing five months later. I know he believes this should amount to discussions with BMW's finance department but I can't see why Mr Y would think this. These discussions were all about upgrading his car later in the year whilst he was aware – because voicemails were left with him at the correct number – that BMW FS was concerned at the breach of the terms and conditions.

Mr Y has argued that he was waiting for an email, which he never received, from BMW FS. However, he was definitely sent two letters: a default notice dated 27 June 2023 and then a notice of termination on 26 July 2023. Mr Y has said he didn't receive the default notice.

I'm satisfied the default notice was issued in accordance with the terms and conditions of the relevant consumer legislation, and Mr Y's car finance agreement. The requirement is that I can see the default notice was sent and in this case, I can see it was.

I appreciate how upset Mr Y is about what he views as inadequate communication and the lodging of a default notice. But I'm satisfied that BMW FS did nothing wrong here and Mr Y had an opportunity to provide the information required, and, for whatever reason, chose not to do so.

I won't be asking BMW FS to do anything further.

My final decision

For the reasons given, my final decision is not to uphold Mr Y's complaint against BMW Financial Services (GB) Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Y to accept or reject my decision before 25 March 2025.

Sandra Quinn
Ombudsman