

The complaint

Miss L complains that BMW Financial Services (GB) Limited trading as ALPHERA Financial Services (AFS) unfairly recorded a default on her credit file. Also, it didn't agree to her request to refinance her agreement. She would like this matter resolved in a way that avoids repossession of her car.

What happened

The details of this complaint are well known to both parties so I won't repeat them again here. Instead, I will focus on giving the reasons for my decision.

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 have reached the following conclusions:-

- The agreement Miss L signed makes clear the three options available at the end of her agreement – to keep, part exchange or return the car. To keep the car an optional final repayment and option to purchase fee is payable one month after the last repayment. To return the car 10 days written notice is needed. The agreement makes it clear what the options are and that missed payments would be reported to the Credit Reference Agencies (CRAs). I think Miss L had the information to know what she had to do at the end of her agreement.
- I understand AFS wrote to Miss L in May and August 2021 asking what her plans were for the car and advising it would assume she planned to keep it if it didn't hear back from her. Miss L says she didn't get these letters. I don't know why that was, but Miss L would have been aware from her agreement that she had a decision to make about the car. In the absence of any other information, I don't think it was unreasonable for AFS to assume Miss L wanted to keep the car and to proceed accordingly.
- AFS, in line with its agreement, tried to take the final payment due on 3 November 2021 but this payment failed. From the information I have seen it seems AFS contacted Miss L by phone in November 2021, but it wasn't convenient for Miss L to talk. She sent an email saying she would call on 3 Dec 2021. She says it was a question if she could call not a statement that she would. I am not sure why Miss L felt she had to ask if she could call or why, when AFS didn't call her, she didn't call AFS direct as I think the onus was on her to call AFS to sort out her agreement.
- AFS sent a default notice on 9 December 2021 giving Miss L 20 days to respond to avoid a default. Miss L rang on the last day to say she didn't have funds and was looking for any refinance. I appreciate she isn't happy AFS didn't agree to refinance her agreement but that is a business decision it was entitled to take. I understand, however, that AFS said it would remove the late payment marker from her credit file

to allow her to seek alternative finance which I think was helpful.

- As AFS didn't receive the optional final payment by March 2022 it terminated the agreement and recorded a default on Miss L's credit file. I don't think termination was unreasonable given the time it allowed for the final payment to be made. Neither do I think registering a default was unreasonable as its important credit files accurately record account history.
- I do appreciate the health and financial issues Miss L has shared with us. But she has also told us she didn't make AFS aware of these issues. I appreciate that may have been difficult to do so but I can't reasonably criticise AFS for not taking these issues into account when it wasn't made aware of them.
- If Miss L is struggling to pay the outstanding arrears I suggests she contact AFS to see if she can agree a mutually acceptable way to pay these. We do expect businesses to respond positively and sympathetically to consumers who in financial or other difficulties but that doesn't mean we expect them to write debts off.

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 Miss L to accept or reject my decision before 20 November 2023.

Bridget Makins
Ombudsman