

## **The complaint**

Ms S is unhappy with a car she acquired using a hire purchase agreement, provided by BMW Financial Services(GB) Limited trading as Alphera Financial Services ('Alphera').

## **What happened**

In March 2022 Ms S acquired a used car from a dealer. The car cost just under £25,000, was around two and a half years old and had covered around 24,406 miles. Ms S took a hire purchase agreement through Alphera to cover the cost.

Ms S said around four weeks after getting the car, she noticed the wheel alignment was incorrect. She was told this would cost £5,191.22 to repair by a manufacturer's garage. But, this was then put right for £180 by a local garage who repaired a rod end and track rod.

Ms S then said the car broke down in October 2022. A local garage again repaired the car, replacing spark plugs and cleaning a high pressure pump for a cost of £177.45. The mileage of the car at this point was 30,149.

Ms S complained to Alphera and it issued a final response in February 2023. This said, in summary, that it didn't think the car was of unsatisfactory quality when Ms S acquired it. But it said if Ms S could provide further information then it would consider this.

Ms S then referred the complaint to our service. She said she hasn't been able to drive the car for a total of around ten weeks since she got it. She told us the car has ongoing issues, it had an advisory on an MOT, that it is a 'death trap' and said she is concerned for her family's safety because of the car.

Our investigator issued an opinion. She said, in summary, that she thought the issue with the wheel alignment was likely present or developing at the point of supply. So, she said Alphera should reimburse the cost of this repair and pay her £150 for distress and inconvenience caused. But, she thought the later issues with the pump and spark plugs were likely down to wear and tear and so said Alphera weren't responsible for this.

Ms S was unhappy with this. She sent in an invoice for £150 she'd paid for a diagnostic from July 2023. She also provided an estimate to cover wiring checks in relation to a fault code, an alloy wheel replacement and an emergency battery. The estimate totalled £1,973.51. The mileage was recorded as 33,964.

Ms S said Alphera should carry out the repairs from the estimate, service the car for free and pay her £500, or said it should let her sell the car and accept any shortfall. Or she said it should take the car back directly and pay her £500.

Alphera got in touch and provided an email that said the dealer had paid £180 for the initial repairs. So, it asked for evidence from Ms S that she covered the cost herself. And it said Ms S had reasonable use of the car.

We asked Ms S for her comments on this. She said she had to pay £150 for an inspection

and pay out for an MOT. And she said she should still get £500 because of what happened.

Because Alphera and Ms S disagreed, the case was passed to me to decide.

I sent Alphera and Ms S a provisional decision on 18 October 2023. My findings from this decision were as follows:

*I'd like to start by explaining to both parties that I might not comment on every individual point raised or every piece of evidence. While I have carefully considered all of the information on the case, I am going to focus on what I think are the key points and the crux of the complaint. This reflects the informal nature of our service.*

*Ms S complains about a car supplied under a hire purchase agreement. Entering into regulated consumer credit contracts such as this as a lender is a regulated activity, so I'm satisfied I can consider Ms S's complaint against Alphera.*

*When considering what's fair and reasonable, I take into account relevant law and regulations. The Consumer Rights Act 2015 ('CRA') is relevant to this complaint. The CRA explains under a contract to supply goods, the supplier – Alphera here – has a responsibility to make sure goods are of satisfactory quality. Satisfactory quality is what a reasonable person would expect – taking into account any relevant factors.*

*I would consider relevant factors here, amongst others, to include the car's age, price, mileage and description. Ms S's car was around two and a half years old and had covered around 24,400 miles. So, I think a reasonable person would not expect it to be in the same condition as a new car and might assume parts of the car had suffered wear and tear. But, the car still cost around £25,000, so I think a reasonable person would expect it to have been free from anything other than minor defects and would've expected trouble free motoring for some time.*

*So, what I need to consider here is whether the car supplied to Ms S was of satisfactory quality or not. Ms S has raised a few issues, so I'll consider these in turn.*

#### *Wheel alignment*

*Ms S says she noticed this issue occurred around four weeks after she got the car. And our investigator said she thought it was most likely this was present or developing at the point of supply. But, I don't agree here.*

*Looking at the estimate from the manufacturer's garage, it appears a 'stabilisation warning notification' was on the dashboard. And I've thought about what Ms S told us when she referred the complaint to our service. She said:*

*"the wheel alignment was totally out, one was pointing outwards while the other was straight".*

*Given this, it appears the wheel alignment issue was severe. I would've expected, if this issue was present when Ms S got the car, that this would've been noticed immediately – not after a few weeks.*

*Given the apparent severity of the issue, this might suggest this had been caused by an external issue such as an impact to the wheel. And it appears from some testimony from the dealer that this was what the manufacturer's garage suspected when it saw the car.*

*Thinking about all of this, I'm not persuaded that this issue was present when Ms S got the*

*car. But, I do appreciate there is a lack of evidence here and this is a finely balanced point.*

*So, it's worth explaining that even if I reached the opposite conclusion above, I still wouldn't ask Alpheria to do anything further. I say this because under the CRA, if this issue was present when Ms S got the car, and I concluded that this meant it was of unsatisfactory quality, then a repair would be one of the remedies available to Ms S to put things right. It doesn't seem in dispute that a repair took place, and that the dealer paid for this, not Ms S.*

*So, whether this issue was present at the point of supply, or happened after Ms S got the car, it has been fixed at no cost to her. This means Alpheria needs to take no further action on this point.*

#### *Spark plugs and pump*

*I've thought about when these issues occurred. At the point the repair was carried out, Ms S had the car for over seven months and it had covered just under 6,000 miles since she got it.*

*I'm satisfied if this issue had been present or developing when Ms S acquired the car, then it would've appeared earlier than it did. But, that being said, I still need to decide if this issue meant that the car was durable – which the CRA explains should be considered as part of satisfactory quality.*

*It's important to note that Ms S told our service that she knew at the point she got the car that it had no service history. I think this needs to be considered as a 'relevant circumstance', as it's possible that the car hadn't been serviced in line with the manufacturer's guidelines.*

*Thinking about all of this, on balance I'm not persuaded the issues with the spark plugs and pump meant the car wasn't durable – especially considering the lack of service history.*

*That being said, it's worth explaining that even if I reached the opposite conclusion, I again still wouldn't ask Alpheria to take any further action. That's because I've seen a copy of the invoice from this work that was billed to the dealer – not to Ms S. So, I'm not persuaded that Ms S paid for this work either – I think it's more likely the dealer covered the cost.*

*This means that the car was again repaired free of charge to Ms S. So, even if I thought this issue meant the car wasn't of satisfactory quality, the repair would've broadly met Ms S's rights under the CRA as with the previous issue.*

#### *Later issues*

*Ms S has recently provided our service with some further evidence about other issues with the car. These included recommended repairs for wiring checks in relation to a fault code, an alloy wheel replacement and an emergency battery.*

*The estimate from this work is from July 2023 – which is not far off 18 months after Ms S got the car. And the mileage is recorded as just short of 34,000, meaning the car has covered just under 10,000 miles since Ms S got it. Considering this, I'm satisfied these issues were not present or developing at the point of supply, nor do they mean the car wasn't durable. I think it's most likely these are down to wear and tear of the car.*

*It follows this that I don't think Alpheria are responsible for these issues. To be clear, this also means I don't think it's reasonable for Alpheria to cover the cost of the associated diagnostic.*

#### *Summary*

*In summary, I'm not persuaded that the issues with the wheel alignment, spark plugs and pump were present or developing when Ms S got the car. Nor do I think these issues mean the car wasn't reasonably durable. But, that being said, I'm satisfied these issues were repaired free of charge to Ms S and so whatever happened, an appropriate remedy under the CRA has been carried out.*

*I'm also satisfied that the more recent issues Ms S complained about are due to wear and tear and do not mean the car was of unsatisfactory quality when she acquired it.*

*I want to reassure Ms S that I've carefully considered all of the other points she's raised, but I do not think this complaint should be upheld.*

I gave both parties four weeks to come back with any further information or evidence. Alpha responded and said it agreed with the provisional decision.

Ms S replied. She confirmed she didn't pay for the repairs to the car, but said she did pay for an MOT and an inspection. She said she was very disappointed with what I'd said.

### **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 thought about everything again, and having carefully considered the comments Ms S made in her recent response, I still do not think this complaint should be upheld.

This is due to the same reasons I explained in my provisional decision and set out above.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms S to accept or reject my decision before 18 December 2023.

John Bower  
**Ombudsman**