

The complaint

Mrs R complains about a decision taken by BMW Financial Services(GB) Limited trading as ALPHERA Financial Services ("BMWFS") to terminate her hire purchase agreement ("agreement").

What happened

In June 2019 Mrs R entered into an agreement with BMWFS for a used car costing £22,489.00. Under the terms of her agreement, everything else being equal, Mrs R undertook to make an advance payment of £2,000.00 followed by 48 monthly payments of £321.00 and a final monthly payment of £10,594.44 making a total repayable of £28,002.44 at an APR of 8.9%.

Between June and November 2022 BMWFS sent Mrs R a number of arrears notices. Mrs R says these were destroyed by her husband, so she never had sight of them.

On 14 December 2022 BMWFS sent Mrs R a default notice with the arrears standing at £963.00 (3 monthly payments). Mrs R says this was destroyed by her husband, so she never had sight of it.

On 11 January 2023 BMWFS sent Mrs R a letter to say it had terminated her agreement with the arrears standing at £1,284.00 (4 monthly payments). Mrs R says she received this letter.

Shortly after receiving the above letter Mrs R complained to BMWFS about its decision to terminate her agreement. In summary she said that BMWFS hadn't done enough to try contact her before termination.

On 8 March 2023 BMWFS issued Mrs R with a final response letter ("FRL"). Under cover of this FRL BMWFS said it stood by its decision to terminate Mrs R's agreement and to say that it had sent numerous letters to her (before taking the decision to terminate her agreement) and had attempted to contact her by both telephone and email.

On 14 April 2023 BMWFS sent Mrs R a further copy of its FRL and to confirm that "*all collection and recovery action [would] continue*".

Shortly after receiving BMWFS' FRL Mrs R complained to our service.

Mrs R's complaint was considered by one of our investigators who came to the view that BMWFS had done nothing wrong in terminating her agreement.

Mrs R didn't agree and so her complaint has been passed to me for review and 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 can confirm that I've come to the same conclusion as the investigator and for the same reasons. There is also very little I can usefully add to what has already been said.

It's clear that Mrs R has very strong feelings about this complaint. She has provided detailed submissions in support of her view which I can confirm I've read and considered in their entirety. However, I trust that Mrs R will not take the fact that my findings focus on what I consider to be the central issues, and that they are expressed in considerably less detail, as a discourtesy. The purpose of my decision isn't to address every point raised. The purpose of my decision is to set out my conclusions and reasons for reaching them.

I would also point out that where the information I've got is incomplete, unclear, or contradictory, I've to base my decision on the balance of probabilities.

I don't underestimate the unfortunate position Mrs R was in in the lead up to BMWFS' decision to terminate her agreement, particularly in regard to her marriage and her mental health. But as Mrs R herself accepts, this unfortunate position was never shared with BMWFS until after it had taken the decision to terminate her agreement. So, I can't reasonably hold BMWFS liable for failing to act differently, including taking the decision to terminate Mrs R's agreement.

I will now turn to the steps BMWFS actually took to bring to Mrs R's attention the arrears under her agreement and the consequences of failing to address the same.

Mrs R says that she received none of the letters BMWFS sent her, prior to the letter confirming her agreement had been terminated, because these had been destroyed by her husband. But I only need to be satisfied that these letters were sent, not that they were received. And for the avoidance of doubt, I'm satisfied that all the letters BMWFS says it sent were indeed sent.

Mrs R has provided a letter from her husband confirming that he did destroy letters addressed to her from BMWFS. But as I say above I only need to be satisfied that the letters BMWFS says it sent were sent, not whether they were received. So unfortunately, this letter doesn't help Mrs R's case. It's also the case that given Mrs R accepts that BMWFS were unaware of her mental health prior to it taking the decision to terminate her agreement, any medical evidence in this respect doesn't help Mrs R's case either.

I note that Mrs R says BMWFS should have tried to contact her by means other than letter. Now as pointed out by the investigator BMWFS was under no obligation to do this but I'm satisfied, based on system notes provided by BMWFS, that it did try to contact Mrs R by both telephone and email on more than one occasion.

I appreciate Mrs R will be disappointed by my decision, but I'm simply not persuaded that in the particular circumstances of this case BMWFS has done anything wrong.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R to accept or reject my decision before 28 August 2023.

Peter Cook
Ombudsman