

## **The complaint**

Mr B complains that a car acquired with finance from BMW Financial Services (GB) Limited trading as Alphera Financial Services (BMWFS) was missold to him.

## **What happened**

In March 2022 Mr B was supplied with a car and entered into a hire purchase agreement with BMWFS. The cash price of the car was £25,920 payable by instalments of £442.23 for 60 months.

At the same time as he entered into the hire purchase agreement, Mr B entered into a fixed sum loan agreement to finance the negative equity under his previous agreement. The amount of credit was £1,378.21 for 60 months repayable by monthly instalments of £29.30.

In November 2022 Mr B raised a complaint with BMWFS. He said he couldn't afford the agreement. BMWFS issued a final response in March 2023 in which it found the agreement to be affordable. At this point, Mr B said he hadn't signed either of the agreements in person and that he hadn't been given the opportunity to read the terms and conditions. He also said the finance was overpriced. BMWFS issued a final response in April 2023 in which it said it wasn't upholding the misselling complaint.

Mr B remained unhappy and brought his complaint to this service.

Our investigator didn't uphold the complaint. They said they were satisfied that Mr B had signed the agreements and that he'd had the opportunity to read the terms and conditions including details of the interest rate and the total amount repayable.

Mr B didn't agree. He said he'd never visited the dealership and that he'd dealt with everything online. He said the signatures on the agreements didn't look like his.

## **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.

I've looked at both of the finance agreements to see whether all of the key information is clear, whether the agreements are signed and whether BMWFS has acted fairly.

Both of the agreements have been signed electronically. BMWFS has provided an explanation of the process for doing this. It requires the consumer to upload a passport style photo so that this can be checked against the consumers photographic identification. In this case, Mr B provided his driving licence as identification.

I've compared the photograph provided by Mr B to the image on his driving licence and I'm satisfied that the images are of the same person. I'm therefore persuaded that Mr B was happy to upload his photo and proceed with the agreements.

I've looked at both agreements. As I've already said, both agreements were electronically

signed. The signatures on the agreements are different to the signature on Mr B's driving licence. That said, I would expect there to be differences between a "wet" signature (such as that on the driving licence) and an electronic signature.

Mr B has said that he didn't sign the agreements in person. This isn't the same as saying that Mr B didn't sign the agreements. It's not in dispute that the agreements were signed electronically. Just because an agreement has been signed electronically doesn't make it invalid.

I've taken into account that Mr B didn't raise the issue about his signatures until around 6 months after the inception of finance, during which time Mr B used the car and made monthly repayments without question. If Mr B hadn't signed the agreements, I think he would've raised this issue with BMWFS much sooner.

On balance, I haven't seen any evidence to persuade me that Mr B didn't sign the finance agreements. I think it was reasonable for BMWFS to accept the agreements as having been electronically signed by Mr B.

Mr B has also said that he wasn't given the opportunity to read the terms and conditions of the agreements. I've looked at the agreements and I'm satisfied that the key features, such as the interest rate, the monthly repayments and the total amount repayable, are clearly set out. Mr B has signed the agreement to say that he's read and understood the terms and conditions. Ultimately, it's a consumer's responsibility to read the terms and conditions before signing the agreement.

Taking everything into account, I'm unable to say that Mr B wasn't given the opportunity to read the terms and conditions before he signed the agreements. Whether or not he actually read these is his responsibility.

### **My final decision**

My final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 29 November 2023.

Emma Davy  
**Ombudsman**