Financial Ombudsman Service

The complaint

Mrs C complains that penalty charge notices issued on the car she hires under a hire agreement with Mercedes-Benz Financial Services UK Limited (MBFS) were paid by MBFS without her being notified or given the opportunity to appeal. These were then charged to her account.

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here.

My provisional conclusions

I issued a provisional decision on this complaint. I concluded in summary:

- Mrs C entered into a contract hire agreement with MBFS in February 2019. The agreement set out that Mrs C would be liable for any charges.

- Penalty charge notices were sent to MBFS for payment and I accepted that it followed its usual process in paying these promptly to avoid any further costs or action. I thought that this approach would usually be to the benefit of the hirer and I couldn't say that it acted outside of the terms and conditions. However, noting the unique circumstances of this complaint I didn't find that the approach taken by MBFS resulted in Mrs C being treated fairly.

- Mrs C provided evidence to show that she had purchased the required parking tickets for her car on the days on which the penalty charge notices were issued. She made a mistake inputting her car registration details and so her actual registration details weren't recorded as having a valid ticket and charges were raised. This mistake occurred on three occasions and I accepted Mrs C's comments that had she been made aware of the first charge notice she would have checked her details and amended them accordingly. However, given the timing off the charges issued I noted that had Mrs C been contacted immediately by MBFS about this issue this would have been after the first two charges had been raised.

- Mrs C wasn't given the opportunity to appeal the charges. The charge notices provided a right to appeal and said the appeal must be received in writing within 28 days and that appeals wouldn't be accepted after payment had been made. Mrs C wasn't made aware of the charges at the time they were applied and then payment was made without her being notified so she wasn't able to appeal the charges.

- I couldn't say for certain whether Mrs C's appeal would have been upheld but she had evidence of making the required payments for the relevant days and so I thought her appeal could have been successful.

- I found the fairest solution in this specific case was for Mrs C to be refunded the charges she incurred arising from the penalty charge notices dated 15 October, 18 October and 11 November.

Neither party provided any further information in response to my provisional 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.

As I set out in my provisional decision my role isn't generally to comment on a business' processes or systems but instead to decide whether a customer has been treated fairly. In this case I don't think this happened. As no further information was provided in response to my provisional decision my required outcome hasn't changed.

Therefore, as I have previously explained, I note the terms and conditions set out the Mrs C will need to pay MBFS for any charges it has been required to pay, and I have nothing to suggest that MBFS didn't follow it usual process. However, in this case, I think that Mrs C has been potentially disadvantaged by not being able to appeal the charges which is why I am upholding this complaint.

Putting things right

Mercedes-Benz Financial Services UK Limited should refund the charges it applied to Mrs C's account regarding the three penalty charge notices.

My final decision

My final decision is that I uphold this complaint. Mercedes-Benz Financial Services UK Limited should take the actions set out above in resolution of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 11 June 2021.

Jane Archer
Ombudsman