

The complaint

Ms N complains that Mercedes-Benz Financial Services UK Limited (MBFS) unfairly applied charges when she returned a vehicle to it at the end of a hire agreement.

What happened

Ms N acquired a car under a hire agreement with MBFS. The agreement commenced in November 2017 and was for a period of 36 months. Ms N requested that the hire period should be extended and MBFS granted two extensions until July 2021.

Ms N says she arranged for the vehicle to be collected on the maturity date but the collection wasn't able to go ahead because the agent who was collecting the vehicle didn't collect it at the agreed time. The vehicle was collected a week later. Ms N says she was shocked to receive an invoice from MBFS for almost £4,000. MBFS said she owed this money for damages to the car and because she'd returned the car after the maturity date. It provided her with a copy of the second inspection report dated 28 July 2021 which listed the damage it said it had found.

Ms N complained to MBFS.

MBFS looked into her complaint. It agreed that some of the charges shouldn't have been applied. It initially reduced the invoice to £1,869.11. Ms N continued to challenge the charges and MBFS agreed to remove a further charge. But it said that Ms N had to pay £1,296.42. This amount included a charge of £158.52 because MBFS said the vehicle hadn't been returned on the maturity date. Ms N didn't agree. She referred her complaint to our service.

Our investigator looked into Ms N's complaint. He thought it was fair for MBFS to apply charges for damages to the vehicle which exceeded the 'fair wear and tear' guidance set out by the British Vehicle Rental and Leasing Association (BVRLA). He considered each charge that had been applied and looked at the photographs and assessment that'd been carried out when the vehicle was inspected. He thought the damage charges had been appropriately applied.

Our investigator then considered the charge that'd been applied because the vehicle hadn't been collected until after the maturity date. He thought this charge should be removed. He thought, on balance, Ms N had arranged for the vehicle to be collected before one o'clock on the maturity date but the agent collecting the vehicle hadn't carried out the collection as arranged.

MBFS accepted what our investigator said. Ms N did not. She thought £700 would be a fair amount to have to pay. She said she could've got all the work done for less than half the cost sought by MBFS.

Because Ms N didn't agree, the complaint has been passed to me to decide.

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.

Ms N disputes the charges which MBFS seeks to apply, following the second inspection.

The Agreement

I've looked firstly at the terms and conditions of the agreement which Ms N entered into. It stated that at the end of the agreement Ms N was required to return the vehicle in line with MBFS's Vehicle Return Standards (VRS).

The agreement set out the contractual arrangements between Ms N and MBFS. So, she agreed that the VRS would apply when she returned the vehicle. When considering the VRS I've also had regard to the "fair wear and tear" standards provided by the BVRLA in its "Fair Wear and Tear Guide". The BVRLA Guide provides an industry-wide set of accepted standards that define fair wear and tear on vehicles when they are returned at the end of a lease or finance agreement. And, although they don't apply to the agreement Ms N entered into, when thinking about Ms N's complaint and whether she's been treated fairly and reasonably, I've taken the BVRLA Guide into account.

Ms N told us she wasn't given information about the VRS before entering the agreement. She says the wording in the agreement is vague and is set out in the small print.

I've looked at the agreement Ms N signed. On each page of the agreement at the top there is a statement setting out the page number and also stating how many pages are included. The VRS is included at pages four, five and six of the agreement she signed and the font size on those pages appears to be the same as the font size for the other wording in the agreement. So, I'm satisfied the VRS was included in the agreement Ms N signed and I'm also satisfied it wasn't hidden in small print.

Ms N says she wasn't given any information about the VRS six months prior to the maturity date. She says this should've happened.

As mentioned above, the hire agreement was extended twice – in January 2021 and again in May 2021. That was why Ms N didn't have to return the vehicle until July 2021. On both occasions Ms N signed an agreement accepting the terms of the extension. That agreement included the following statement:

"I understand the terms and conditions of the original agreement still apply."

This meant that in January 2021 and in May 2021, Ms N was referred back to the terms of the original agreement. The original agreement included the VRS. So, I'm not persuaded she wasn't reminded, albeit by reference back to the terms of the original agreement, about the provisions set out in the VRS, in the six-month period prior to July 2021.

The damages detailed on the invoice

I've then looked at the damage which MBFS says its inspectors noted after the vehicle was returned. MBFS has already accepted that some of the charges shouldn't have been applied and it has removed those charges. So, in this decision, I'm only looking at the remaining charges which are still disputed by Ms N. I've set each of these out below.

The agreement stated:

“.. if you fail to take reasonable care of the vehicle in accordance with the manufacturer’s guidelines and/or the VRS you will have to pay our costs of repairing and/or refurbishing the vehicle or the cost of the consequent reduction in the sale value of the vehicle, as compensation.

The decision to repair the vehicle or not to repair the vehicle rests with MBFS and/or the retailer or manufacturer who will undertake the VRS Inspection on our behalf...”

I’ve considered the report which was provided when the car was inspected by the agents acting for MBFS after the vehicle was returned. I’ve also looked at the video footage and photographs of the car taken at that time.

Bumper Front and Rear

I can see several scratches to the bumper front. These scratches exceed 50mm. I can also see scratches to the rear bumper which exceed 50mm.

The VRS says:

“Bumpers and Body mouldings –

Acceptable – scuff marks up to 50mm (2”) which do not adversely affect the overall appearance of your vehicle”

I’ve also looked at what the BVRLA Guide. It says:

“Paintwork, vehicle body, bumpers and trim:

Surface scratches of 25mm or less where the primer or bare metal is not showing are acceptable provided they can be polished out.”

So, having looked at the photographs from the inspection, I’m satisfied the damage to the front and rear bumpers exceed the VRS and also what the BVRLA considers to be fair wear and tear. For that reason, I’ve decided that MBFS can apply charges for these items.

Door pad right hand rear

I’ve looked at the photographs from the inspection and I can see three cuts to the door pad right hand rear. These cuts are each approximately 5mm in length.

The VRS stated:

“The interior of your vehicle must be in a good condition for the age and mileage of the vehicle.

Not acceptable:

Broken or damaged interior mouldings, trim pads, instrument panel, sun visor or headlining, etc.”

The BVRLA Guide says:

“Interior upholstery and trim must be clean and odourless with no burns scratches tears dents or staining

Carpets should not have holes.

Interior fittings such as seat belts rear view mirrors courtesy lights sun visors door bins etc, must be present intact and free of damage.”

The damage to the door right hand rear pad did exceed the standard set out in both the VRS and the BVRLA Guide. So, I’m satisfied MBFS can apply a charge for this item.

I've noted that when investigating this complaint MBFS appears to have agreed that the damages referred to as the 'door pad cut' could be removed, but the damage to the other door pad, referred to as a 'hole' was still chargeable. The 'hole' was in the door pad right hand front. In error, MBFS removed the charge for the damages to the door pad right hand front.

I've looked at the damage to the door pad right hand front. A hole is clearly visible on the photographs taken during the inspection. So, I think MBFS could've charged for that damage.

The charge for the damage to the door pad right hand front was greater than the charge for the door pad right hand rear. So, Ms N hasn't been disadvantaged as a result of the error MBFS made here and, given what I've said above about the damage to both door pads, I don't think it would be fair or reasonable to require MBFS to also remove the disputed charge for the door pad right hand rear.

Facia Centre Panel

I've looked at the photographs provided and I can see damage to the facia centre panel. There is a visible crack which exceeds 10mm.

The VRS states:

"The interior of your vehicle must be in a good condition for the age and mileage of the vehicle.

Not acceptable:

Broken or damaged interior mouldings, trim pads, instrument panel, sun visor or headlining, etc."

The BVRLA Guide states:

"Vehicle interior

Passenger area, seats, headrests and trim

..Interior fittings such as seat belts, rear view mirrors, courtesy lights, sun visors, door bins, etc, must be present intact and free of damage."

Whilst neither the VRS nor the BVRLA Guide refers specifically to the facia centre panel, I'm satisfied on balance, it is included within the meaning of both of the extracts I've set out above. I say this because the facia panel is part of the interior of the vehicle and it is analogous to the items which are listed in both of the above sections. Neither of the sections set out above provides a comprehensive list of everything that is covered. That is why both sections include the abbreviation "etc."

Having considered the photographs I'm satisfied the damage to the facia centre panel here exceeded what was acceptable under both the VRS and the BVRLA Guide. So, it is fair and reasonable for MBFS to charge for this damage.

Sill Tread plate right front

The photographs show that the sill tread plate to the right front door had been scuffed and had come away from the sill tread itself.

The VRS stated:

"Acceptable

- A minor amount of scuffing to the door and luggage area treads and sills."

Not acceptable

- *Damaged paintwork down to bare metal and aperture seals are torn.*"

The BVRLA Guide states:

"Scratches on treads, sills and seals that reflect normal use are acceptable."

Having looked at the photographic evidence I'm satisfied the damage to the sill tread plate exceeded "minor scuffing" and also exceeded what could reasonably be regarded as normal use. So, I think it is fair and reasonable for MBFS to apply charges for this damage.

Were charges excessive?

Ms N says the charges MBFS applied in respect of the damages is excessive. She says she could've had all the work done for less than half of what she's been charged.

The agreement stated that Ms N was required to keep the vehicle in good repair and condition at all times. The BVRLA Guide also makes clear that drivers can arrange to repair any damage before returning the vehicle, provided the repairs are carried out to a professional standard by a reputable repairer who can provide a full transferable warranty. So, Ms N could've arranged to have the work carried out herself, at a price arranged with the repairer, before returning the vehicle. She didn't do that. And, I haven't seen anything to indicate that the charges applied here were excessive.

The charge for "additional vehicle usage"

Ms N says she arranged for the vehicle to be collected on 16 July 2021. That was the last day of the extended hire period. She says she was told the vehicle would be collected before one o'clock, but shortly before that time MBFS's agent contacted her to say the collection would be delayed until later that afternoon.

Ms N says she wasn't available later that afternoon. She was a key worker during the coronavirus pandemic and wasn't able to make alternative arrangements at such short notice. This meant the collection had to be postponed until 26 July 2021. MBFS applied a daily charge of £13.21 (plus VAT) for ten days as a result.

Our investigator recommended that MBFS should be asked to remove the additional vehicle usage charges. MBFS agreed with this and confirmed it would remove these charges. I agree that this was fair and reasonable. And, in these circumstances, I've decided the daily excess charge of £158.52 should be removed from Ms N's invoice.

It's not clear if MBFS has recorded any adverse information about Ms N's failure to pay the amount it sought to charge her. If it has recorded adverse information with credit reference agencies about that, then it should remove that information.

Putting things right

MBFS should reissue its invoice for damage charges. It's already said it has reduced its charges to £1296.42. That included an amount of £158.52 for additional vehicle usage. It should remove that charge from its invoice and Ms N should be asked to pay the residual total amount of £1137.90.

If MBFS has recorded any adverse information with credit reference agencies about Ms N's failure to pay the amount it had requested her to pay as set out in its previous invoices, it should remove that information.

My final decision

For the reasons given above, I uphold this complaint, in part, about Mercedes-Benz Financial Services UK Limited.

I now require Mercedes-Benz Financial Services UK Limited to

- remove the charge of £158.52 it sought to apply for “Additional Vehicle Usage;”
- issue a new invoice to show a total charge for damages of £1137.90; and
- if it has recorded any adverse information with credit reference agencies about Ms N’s failure to pay the invoice it had previously issued, it should remove that information.

Under the rules of the Financial Ombudsman Service, I’m required to ask Ms N to accept or reject my decision before 9 May 2022.

Irene Martin
Ombudsman