

The complaint

Mr G is unhappy with the charges Mercedes-Benz Financial Services UK Limited ("MBFS") applied, when he handed back a car he acquired under a hire purchase agreement.

What happened

In March 2017, Mr G entered into a three-year hire purchase agreement to acquire a brand-new car. The agreement reached maturity in March 2020, however due to the Covid-19 pandemic, the car wasn't collected until 1 July 2020 by MBFS' recovery agents – who I'll refer to as B.

An initial inspection was carried out at Mr G's property. B identified six areas of damage and five missing items. It also noted the interior and exterior of the car was dirty. Mr G said he agreed with B about the issues it had identified. It estimated Mr G would need to pay around £1,584.05.

B carried out a second inspection on the condition of Mr G's car on 8 July 2020. It said the following items were missing:

1. Literature pack - £115.75
2. V5 registration document - £25
3. Spare key - £260
4. Alloy wheel key - £78

And it said the following damage was outside of fair wear and tear:

5. Left hand front wheel – polished alloy damage - £115
6. Right hand front wheel – polished alloy damage - £286.72
7. Left hand front tyre – middle tread 1.5mm - £181.36
8. Left hand right tyre – cracked - £181.36
9. Right hand front tyre – inner tread 1.5mm - £181.36
10. Front bumper – scratched - £210
11. Left hand front wing – excessive damage - £671.69
12. Left hand front wing arch extension – scuffed (unpainted) - £30
13. Left hand right door – scratched - £210
14. Left hand right quarter panel – scratched - £170
15. Tailgate – excessive damage - £1,288.44
16. Rear manufacturer badge – broken - £29
17. Right hand front seat base cover – cut - £174.10

B also removed some of the charges it had previously identified. These were for two missing items, two areas of damage and the general interior and exterior being dirty.

Unhappy with the charges, Mr G complained to MBFS. He said because the car wasn't collected at the end of the agreement, he incurred storage costs to keep the car. He said at

the time the car was collected from him by B, B told him the charges would total around £1,500, which he says he agreed to. He said he noted B hadn't taken the spare key and literature pack, so he says he tried to call B, but he couldn't reach it. He said the damage to the tailgate wasn't there when the car left his property and B didn't mention this at the time of the inspection. He said he wasn't given the opportunity to have the repairs done himself.

MBFS issued its response to Mr G's complaint in October 2020. It said it had to carry out a second inspection as the first inspection was hindered due to the exterior and interior of the car being too dirty to carry out a full inspection. It said it hadn't received any correspondence from Mr G to confirm he had incurred a financial loss for the storing the car. And it said B hadn't caused any damage in transit and neither would B refuse to take the V5, spare key or the literature pack at the time of the first inspection. MBFS said Mr G's outstanding balance was around £4,212.

Unhappy with this, Mr G referred his complaint to this service. He reiterated his complaint and said MBFS hadn't reimbursed him for his storage costs which totalled £5,184. He said he wanted MBFS to pay his storage costs and he said he disputed the charges for damage to the rear tailgate and payment for the key and information pack.

Our investigator looked into the complaint and thought most the charges were applied fairly in line with MBFS' Vehicle Return Standards ("VRS") and the industry standard - The British Vehicle Rental & Leasing Association's ("BVRLA") fair wear and tear guidelines. However, she didn't think it was fair for MBFS to charge for the damage for the right hand front alloy, the rear manufacturer badge or the seat base cover. She said Mr G hadn't provided evidence of the storage costs he said he incurred. And she didn't think it was likely Mr G had returned the spare key or the literature pack to B at the point the car was collected from him.

MBFS agreed with our investigator. Mr G disagreed and said that he still had the spare key and literature pack. He said he didn't agree to the damage to the tailgate and he said he'd send this service a copy of his storage costs.

Mr G remains unhappy, so 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.

Mr G complains about a hire purchase agreement. Entering into consumer credit contracts such as this is as a lender is a regulated activity, so I'm satisfied I can consider Mr G's complaint against MBFS.

When reaching my decision, I'm required to consider relevant industry guidance. Here, relevant guidance includes the guidelines on fair wear and tear published by the trade body, the BVRLA. This guidance is generally intended for the return of new cars at the end of the first leasing cycle. MBFS aren't members of the BVRLA, but I've considered the BVRLA guidelines alongside MBFS' VRS.

The VRS are set out in Mr G's hire purchase agreement and these explain the standards that MBFS expected this car to meet on return. When Mr G acquired his car under the hire purchase agreement, he agreed to return the car in line with the standards set out in the VRS. And he agreed that MBFS would be entitled to charge him for costs of repairs and/or refurbishing the vehicle, or the cost of the consequent reduction in the sale value, as compensation.

I've read and considered the whole file and acknowledge that Mr G has raised a number of different complaint points. I've concentrated on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it – but because I don't think I need to comment on it in order to reach what I think is the right outcome.

Alloy damage

In relation to alloys, the VRS say the following damage is acceptable:

“minor scuffing or damage under 25mm to the vehicle alloy or steel rim edge or wheel face”.

And the following is not acceptable:

“scuff chips and scratches exceeding 25mm”.

BVRLA guidance says:

“Dents on wheel rims and wheel trims are not acceptable.

Scuffs up to 50mm on the total circumference of the wheel rim and on alloy wheels are acceptable.

Any damage to the wheel spokes, wheel fascia, or hub of the alloy wheel is not acceptable. There should be no rust or corrosion on the alloy wheels.”

I've looked at the photograph provided for the left hand front alloy where damage was identified by B. Whilst it hasn't been measured with a ruler, the photograph provided shows damage and scuffing in excess of 50mm. In light of this, I'm satisfied MBFS is entitled to charge Mr G for the damage to the alloy as it falls outside of fair wear and tear.

Tyres

In relation to tyres, the VRS say the following is acceptable:

“Minimum remaining tread of 1.6mm across 75% of the tyre in line with current legislation”

And the following is not acceptable:

“Less than 1.6mm tread depth across 75% of the tyre including spare”.

The BVRLA says for tyres:

“All tyres, including any spare, must meet minimum UK legal requirements and comply with the vehicle manufacturer's recommendations of tyre type, class, size and speed rating for the vehicle.*

There must be no damage to sidewalls or tread.”

B's report provides a photograph which shows the right hand front tyre tread is uneven and worn. It also states that middle tread of the tyre is 1.5mm. The photograph for the right hand front tyre also shows uneven tread. And B identified that the inner tread was only 1.5mm. The photograph for the left hand right tyre shows a crack in the sidewall of the tyre.

In light of this, I think it's likely the tyres didn't meet the requirements set out by the VRS and BVRLA, so the damage falls outside of fair wear and tear. It follows that I think MBFS are entitled to charge for the replacement tyres.

Scratches and scuffs

In relation to scratches to the body of the car and paint, the VRS say the following is acceptable:

“light surface scratches not through the top coat which can be removed by polishing/touching up”.

They say the following isn't acceptable:

“Any chipping and scratching of paintwork that has penetrated the base coat and/or has caused corrosion of any kind which cannot be polished out”.

The BVRLA says for scratches to bumpers and the body and paint of a car:

“Surface scratches of 25mm or less where the primer or bare metal is not showing are acceptable provided they can be polished out. A maximum of four surface scratches on one panel is acceptable”.

And for bumpers and body mouldings, the VRS says the following is acceptable:

“Scuff marks up to 50mm (2”), which do not adversely affect the overall appearance of your vehicle”

I've looked at the photographs provided to show the scratches. The photographs show that the scratch to the left hand right door is around 50mm and a ruler has been used to measure this. Whilst the scratch to the left hand right quarter panel, doesn't show a ruler being used to measure the scratch, the scratch is more than 100mm. Both scratches have penetrated though the top coat, which isn't acceptable under the VRS or BVRLA.

The scratch to the front bumper is more than 50mm and a ruler has been used to measure this. This is more than what is allowed under the BVRLA and the VRS. As the scratch exceeds 50mm and it penetrates the base coat, I think it affects the overall appearance of the car.

The scuff to the left hand front wing arch extension doesn't show a ruler being used to measure the scuff. However, the scuff is clearly more than the 50mm and the primer is showing.

Overall, as all the damage identified fall outside what is considered fair wear and tear under both the VRS and the BVRLA guidelines, I think it's fair for MBFS to charge for all three scratches and one scuff that B identified.

Excessive damage

One of the areas that B identified excessive damage was the left hand front wing. Given this damage is on the body of the car, I've applied the same VRS and BVRLA standards that I've mentioned above for scratches and scuffs.

I've looked at the photographs for the damage to the left hand front wing. The photographs show damage which is over 25mm and this has been measured with a ruler. I've also seen a video of this damage which was taken during the first inspection. The video shows a large area where there are scratches which have penetrated the base coat. I think this damage is excessive and it affects the overall appearance of the car.

For the tailgate, the photographs show a dent and they show a scratch. The scratch is more than 50mm and penetrates the base coat. This is more than what is allowed under the VRS and BVRLA guidelines. There are also two dents on the same panel which measure over 15mm. These are shown in the photographs with a ruler and also in the video which was taken at the time of the first inspection.

The VRS say dented bumpers aren't acceptable. And the BVRLA say *“Dents of 15mm or less in diameter are acceptable provided there are no more than two per panel and the paint surface is not broken”.*

Given there are two dents which are more than 15mm each and there is also a scratch on the same panel, I think the damage to the tailgate is excessive. I appreciate Mr G says the dents weren't there when the car left his property, but these are visible in the video taken by B at Mr G's property. So I'm satisfied that the dents to the tailgate were present when the car was collected from Mr G. And whilst Mr G says he wasn't provided with an opportunity to repair any of the damage identified, he was provided with a copy of the VRS at the time he took out the agreement. It would have been down to Mr G to carry out any repairs before the car was handed back to MBFS.

Overall, as the damage identified to the left hand front wing and tailgate falls outside what is considered fair wear and tear under both the VRS and the BVRLA guidelines, I think it's fair for MBFS to charge for the damage identified.

Missing items

There's no dispute that the V5, literature pack, spare key and alloy wheel key were due to be returned with the car. Mr G hasn't disputed that the V5 or the alloy wheel key weren't returned with the car. So given both these items were reported missing on both inspections and Mr G hasn't disputed this, I'm satisfied it's more likely than not that Mr G didn't return these and so MBFS is entitled to charge Mr G for the cost of replacing these.

However, in relation to the spare key and literature pack, Mr G says B asked him for these items and so he provided them to B. He says when B left, he realised it hadn't taken the spare key or the literature pack. However B says it would have had no reason to not take both these items at the point it collected the car from Mr G. Given there are two conflicting version of events, I've thought about what I think is most likely to have happened on a balance of probabilities.

B was required to check that the spare key and literature pack were available as part of the condition report and if so, retain these. So I think it's likely on balance, that these items weren't provided to B because if they were, I see no reason why B would report these items as missing, especially given Mr G has said he handed them over and B forgot to take them.

In addition, Mr G signed the initial condition report and both these items were listed as missing. As Mr G had an opportunity to review this condition report, I think it would have been reasonable for him to have queried these charges and provided both these items to B, if the items were left behind.

Overall I think it's fair and reasonable for MBFS to charge for the spare key and literature pack, as I don't think on balance, they were provided to B at the time it carried out the inspection.

Storage costs

Mr G says as a result of MBFS not collecting the car when the agreement ended, he incurred storage costs of £5,184. I've thought about whether MBFS did anything wrong when it collected the car on 1 July 2020 and the impact of this to Mr G.

MBFS' collection agent, B, was closed between March 2020 and June 2020, as a result of the restrictions set out by the government due to Covid-19. Mr G's car was collected on 1 July 2020, which was a month after B reopened. I understand that other cars hadn't been collected for a period of around three months due to the impact of Covid-19, so this would have reasonably caused a backlog and caused a delay in the collection of Mr G's car. This isn't something I think would be fair to hold MBFS responsible for. And I'm satisfied MBFS arranged collection of the car as soon as it could.

I also acknowledge that Mr G looked after the car for longer than he anticipated. Mr G says he had no room for the car at his house, so he had to keep it in storage. But, Mr G hasn't provided any supporting information to show that he incurred any storage costs.

Overall, the car was only collected late as a result of the restrictions set out by the government and Mr G hasn't provided supporting information to show he incurred any storage costs. So it follows that I don't think MBFS need to do anything to put things right.

Putting things right

Since Mr G's complaint has been referred to this service, MBFS has agreed to remove the charges for damage to the right hand front alloy, the rear manufacturer badge and the seat base cover. If it hasn't done so already, it should deduct these charges from the outstanding amount Mr G owes.

My final decision

My final decision is that Mercedes-Benz Financial Services UK Limited should follow my directions set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 22 June 2022.

Sonia Ahmed
Ombudsman