

The complaint

Mr A complains that a car he took on hire purchase from Mercedes-Benz Financial Services UK Limited ("MBFS") was not of satisfactory quality. He complains too that MBFS reported adverse credit information on his credit file.

What happened

In November 2016 Mr A entered into a four-year hire purchase agreement with MBFS. The agreement was for a new car with a cash price of over £32,000. He paid a deposit of just over £3,700 and was then to make monthly payments of a little over £361 and, if he wanted to keep the car at the end of the hire purchase term, a final payment of £15,300.

Mr A says that he had problems with the car very soon after it was delivered to him. Specifically, he says that the stop-start function did not work as he thought it should; the alarm would activate without reason; fuel consumption was higher than he thought it should be; and one of the tyres was wearing unevenly. He contacted the dealership to try to resolve these issues but, whilst it was able to fix some of them temporarily, he was not satisfied with the solution.

Mr A complained to MBFS, but it did not believe that the issues were evidence that the car was not of satisfactory quality. They were either issues of wear and tear or were related the way Mr A was using the car. It issued a final response on 18 June 2020, telling Mr A that he had six months in which to refer his complaint to the Financial Ombudsman Service.

Mr A then raised a further complaint, this time about the information that MBFS had reported to credit reference agencies. He had stopped some monthly payments in an attempt to get the issues with the car resolved.

In a further final response letter of 15 December 2020 MBFS explained that it had a duty to other potential lenders to report missing payments and so did not think it had done anything wrong. It noted that the hire purchase agreement had by then come to an end.

Mr A referred both issues to this service in early June 2021.

In respect of the first issue, our investigator took the view that, because the complaint had been referred to the service more than six months after the final response letter, we had no power to consider it.

In respect of the second issue, the investigator thought that Mr A remained obliged to make the monthly payments under the hire purchase agreement, even if he was unhappy with the car. However, he noted that MBFS had continued to record adverse information even after the car had been returned. Although MBFS had taken steps to correct that, the investigator thought that some compensation was merited; he recommended a payment of £75 in recognition of the distress Mr A had suffered and the inconvenience to which he had been put. The investigator was not persuaded however that any actual losses had resulted. MBFS accepted the investigator's recommendations, but Mr A did not and asked that an ombudsman review the case.

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.

The Financial Ombudsman Service cannot generally consider a complaint which is referred to it more than six months after the date of a financial business's final response. It can disregard that time limit if the failure to comply with that time is the result of an exceptional circumstance. MBFS issued its final response to the complaint about the car's quality on 18 June 2020. That meant that Mr A had until 18 December 2020 to refer the matter to the ombudsman. He did not do so until June 2021, however.

Mr A has said that he was speaking with the manufacturer and needed time to collate his complaint papers. I can see why he might have thought therefore that it was reasonable to delay referring the matter to this service. That, however, is not the test I must apply. I must consider whether there were "*exceptional circumstances*"; I do not believe there were in this case. All Mr A needed to do was contact this service with brief details of his complaint and the financial business involved. He could have done that by letter, email or by phone and did not need to compile all his evidence and arguments in order to refer the complaint to us. He remained in touch with MBFS about other matters.

I have considered the effect of the second final response of 15 December 2020 and whether that communication led Mr A to believe that he had a further six months to refer the first complaint to us. I note that it was sent only a few days before the first time limit expired. In any event, it made clear in my view that it covered only the credit reference issue and referred expressly to the earlier final response. I do not believe it caused Mr A to think he had more time and is not therefore an exceptional circumstance causing the delay in referring the first issue to this service.

For these reasons, I agree with the investigator that the Financial Ombudsman Service has no power to consider Mr A's complaint about the quality of the car.

As far as the second part of the complaint is concerned, Mr A was contractually bound to make the payments he had agreed to make. If he thought the car was not of satisfactory quality, he could complain about that, but he still had to make payments. Because he did not make payments when he should have done, MBFS was entitled to record that fact – and indeed may have been obliged to do so.

The investigator thought however that some of the information was recorded incorrectly and should have been corrected. He thought too that MBFS had not corrected the information quickly enough and recommend some compensation for that. MBFS agreed to his recommendation.

I note that Mr A has suggested that he has missed out on certain credit deals because of the delay in correcting the information. I am not persuaded however that that is the case. I can see that it may have had an impact, but I do not believe that there is sufficient evidence to show that it did, and so I do not believe I can fairly award more than the sum the investigator recommended.

Putting things right

Although MBFS has agreed to the investigator's recommendation, I will make a formal award so that Mr A can enforce it, should he need to do so.

My final decision

My final decision is that, to resolve Mr A's complaint, Mercedes-Benz Financial Services UK Limited should pay him £75.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 12 April 2022.

Mike Ingram

Ombudsman