

## **The complaint**

Mr B is unhappy with the end of contract charges applied by Mercedes-Benz Financial Services UK Limited (MBFS), following the return of a car under a hire purchase agreement.

## **What happened**

On 27 July 2017, Mr B was supplied with a used car through a hire purchase agreement with MBFS. The agreement was for £17,980 over 60 months, with monthly payments of £361.48. At the time of supply, the car was just over two years old and had done 29,499 miles. Mr B voluntarily terminated the agreement in March 2020.

Mr B says that he wanted unlimited mileage, but the agreement only allowed him 20,000 miles a year – 100,000 miles over the full term – before excess mileage charges applied. He also says that, when he queried this with the dealership, they told him it was a technicality and wouldn't matter – he could drive as many miles as he wanted.

When the agreement was terminated the car was returned to MBFS, and it was inspected for any damage. MBFS said there was damage that fell outside their Vehicle Return Standards (VRS) and they invoiced Mr B for this. They also invoiced him for exceeding the mileage allowable under the agreement.

Mr B wasn't happy with the charges, and he said there was no damage to the car when it was collected. He also complained about the delay in the car being collected, and the inconvenience it caused him; about a parking ticket he received on the car while he was waiting for it to be collected; and about damage done to his driveway due to the car being stored on there.

While MBFS waived the excess mileage charges, they thought the damage charges had been fairly applied. They also said the delay in collecting the car was due to the coronavirus (Covid-19) pandemic, and they didn't think they were responsible for either the parking ticket or the damage to Mr B's drive. Mr B wasn't happy with this response and brought his complaint to us for investigation.

Our investigator said that Mr B's agreement came to an end in March 2020. And, despite the national lockdowns caused by Covid-19, he thought that MBFS not collecting the car until November 2020 was an excessive delay. And Mr B having to keep and store the car for an additional eight months would've caused him some inconvenience. So, he thought MBFS should pay Mr B £100 compensation for this delay.

But the investigator said that, even though there was a delay in collecting the car, it was still Mr B's responsibility to ensure the car was stored safely and parked in line with any parking regulations. So, he didn't think MBFS were responsible for the parking ticket Mr B received. And he hadn't seen anything to show that MBFS had ever agreed to reimburse him for this.

The investigator also said that he hadn't seen any evidence the damage to Mr B's drive was caused by having this particular car parked in one position for a prolonged period of time. So, he didn't think that MBFS were responsible for these costs either.

With regards to the damage to the car, the investigator said this fell outside of MBFS's VRS, and this was supported by video and photographic evidence from when the car was inspected. While Mr B had provided his own video of the car, this was not date stamped, nor did it zoom in or show the areas of damage highlighted on the inspection report. So, the investigator thought MBFS had acted fairly by charging Mr B for this damage.

Mr B didn't agree with the investigator. He said that the car wasn't inspected in his presence, and "*any alleged damage or marks on the car could have occurred in transportation or in storage after the car had been collected.*" He also disagreed that his video wasn't clear enough and said, "*the car had done 240,000 miles and was in really condition [sic] for this mileage, there is damage to my drive as well.*"

Because Mr B didn't agree with the investigator, this matter has been passed to me to make a final 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.

Having done so, I have reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and what I consider was good industry practice at the time. Mr B was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we're able to look into complaints about it.

#### *excess mileage*

While Mr B initially raised the matter of the excess mileage charge, I've seen that MBFS haven't charged this to him. Because of this, I consider this part of the complaint resolved.

#### *delay in collection*

Mr B terminated the agreement in March 2020, around the time of the first Covid-19 national lockdown. And the lockdown rules didn't allow for companies like MBFS to collect cars. So, this would've resulted in a delay that was outside of MBFS's control.

However, they were allowed to start collecting cars again in June 2020 and, while there would've been a backlog of collections, I don't consider it reasonable that Mr B had to wait between June and November 2020 for the car to be collected.

Mr B has explained the inconvenience this caused him with both access to his property, and having an extra car taking up a space on his drive. Given this, I'm in agreement that MBFS should pay Mr B some compensation for the inconvenience caused. I'm also satisfied that the £100 recommended is in the region of what I'd have directed had no recommendation been made. And I can't see any compelling reason to change this.

#### *parking ticket*

Mr B has explained that he needed to move the car off his drive, as he had workmen present, and they needed to park their van there. While I appreciate that he wouldn't have needed to do this if the car had been collected earlier, it was still Mr B's responsibility to ensure that he parked the car in line with local traffic regulations. He didn't do this, and it resulted in him receiving a parking ticket.

I haven't seen anything to show me that MBFS told Mr B they would take responsibility for any parking tickets while the car was in his possession, or that they agreed to pay this ticket retrospectively. And they didn't instruct Mr B to park the car where he did. As such, I won't be holding MBFS responsible for the parking ticket or asking them to pay this.

#### *damage to driveway*

Mr B has also complained of damage to his drive. While he hasn't supplied any evidence of this damage, I don't doubt that this occurred. From the photographs of the car Mr B has supplied, I've noted that he has a tarmac drive. And in prolonged periods of heat, similar to those the UK had during the first lockdown period, tarmac drives can go soft and become indented due to the weight of an object i.e. a car, upon them. So, any car parked on the drive under these circumstances could've caused damage.

Mr B has also explained that he had workmen park their van on his drive. And it's likely that the van was substantially heavier than the car. And parking a substantially heavier vehicle on the drive may also cause some damage.

While I don't know what caused the damage to Mr B's drive, as stated above there are a number of possible options. And, without any evidence i.e. an inspection report, saying that the damage was solely caused by the car being parked in one spot for a prolonged period of time, and that there were no external factors involved i.e. heat or the way the driveway had been constructed; I'm unable to hold MBFS responsible for the damage. And I won't be asking them to do anything more.

#### *damage to car*

I've seen a copy of the hire purchase agreement, which Mr B signed on 27 July 2017. This clearly explains what is, and isn't, considered acceptable damage under the VRS. It also explains that "*when the vehicle is returned to us, a Vehicle Standard Inspection will be carried out by trained technicians at the nominated Defleet Centre.*" And I've seen that the termination letter MBFS sent to Mr B on 16 March 2020 also explains that he may be charged for any damage outside of the VRS.

Based on this, I'm satisfied that Mr B was reasonably made aware of what damage was and wasn't acceptable, how and where an inspection would take place, and that he may be charged for any damage to the car.

I've seen a copy of the Vehicle Condition Report, which shows the car was inspected on 24 November 2020. And, as per the agreement Mr B signed, this took place at a Defleet Centre without him being present.

This report confirms that Mr B was being charged for damage to all four wheels (including the left hand rear tyre having tread below the minimum legal depth); for damage to both the front and rear bumpers; for damage to the boot; and for damage to the left hand front door. This damage is supported by both photographic and video evidence.

I've reviewed the damage in line with the VRS detailed in Mr B's agreement, and I'm satisfied that the damage is outside of what would be considered as fair wear and tear.

All four alloy wheels have signs of damage and corrosion that is more than the “*minor scuffing or damage under 25mm*” allowed under the VRS. And the 1mm tread on the left hand rear tyre is lower than the 1.6mm minimum the VRS allows. I've also noted that corrosion and substantial tyre wear are things that take place over a prolonged period of time and usage/mileage, and are highly unlikely to have been caused just by the car being transported to, and being stored awaiting, inspection.

Both the front and rear bumper, and the boot, show preparatory marks to the paintwork (including bubbling) that is consistent with an unsatisfactory repair. And the VRS states that any “*previous repair [must be] up to an acceptable standard.*” Given that the car is being inspected for damage, I consider it highly unlikely that MBFS would've attempted to repair some, but not all, of the damage before inspection, and then levy a charge for the repairs that'd been done. And I'm satisfied these repairs were attempted before the car was returned to MBFS.

Finally, the left hand front door has a dent of around 20mm. And the VRS only allows for dents of less than 13mm. Given all of this, I'm satisfied that of the damage to the car is chargeable under the VRS.

I've seen the pictures and the video Mr B has supplied of the car. The pictures are date stamped from early April 2020, and I've seen nothing to show me that the video wasn't taken at a similar time. So, I'm satisfied that these show the condition of the car around a month after the agreement was terminated. However, crucially, these were taken around seven months before the car was collected. And, by virtue of the parking ticket Mr B received, I'm satisfied that the car wasn't stored on his drive for this entire time and was certainly driven and parked on a public highway for at least some of this time.

The photographs Mr B has supplied don't show the rear bumper or boot at all. The wheels have mainly been taken at oblique angles, or from a distance, and the front bumper has been taken from a distance. And, as these photographs are embedded within, rather than attached to, an email; it's not possible to zoom in to see if the reported damage is present.

The video Mr B has also supplied also shows the wheels, and the front and rear bumpers, from an oblique angle. And, given the format the video has been supplied in, it's not been possible for me to zoom in to see any areas where reported damage is present.

I'm therefore satisfied that the evidence Mr B has supplied is too far away in time, and of insufficient detail in nature, to show that the damage he's being charged for wasn't present at the time of collection.

I've also considered that Mr B had possession of the car for almost three years and did around 203,000 miles. Given the nature of the damage, I consider it more likely that it occurred in the three years/203,000 miles the car was in Mr B's possession, rather than the short period of time between collection and inspection.

So, I don't think MBFS have acted unfairly by charging Mr B for the damage to the car. And I haven't seen anything that shows me they should reduce or waive these charges.

### **Putting things right**

MBFS should pay Mr B £100 to compensation for the inconvenience he was caused resulting from the delay in the car being collected.

### **My final decision**

For the reasons explained, I uphold Mr B's complaint. And Mercedes-Benz Financial Services UK Limited must follow my directions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 23 August 2022.

Andrew Burford  
**Ombudsman**