

The complaint

Mrs B complains that a car was misrepresented to her when she entered into a hire purchase agreement with Mercedes-Benz Financial Services Limited (MBFS)

What happened

In October 2019 Mrs B was supplied with a car and entered into a hire purchase agreement with MBFS.

Mrs B says the agreement was misrepresented to her. She says the salesperson told her that the final payment required to settle the agreement would be £6000 and that she could pay this after 24 months.

When Mrs B tried to settle the agreement MBFS advised her that the agreement was for 30 months and that the final payment was £12,850.

Mrs B complained to MBFS. She said she'd never received a copy of the agreement and hadn't received the free servicing that the salesperson had promised. There were also issues with the registration of the car. In response, MBFS found that the agreement had been sent to an incorrect email address and said it had no record of the welcome pack being sent to Mrs B. It said it couldn't comment on any discussions Mrs B had with the salesperson regarding products such as servicing or registration. MBFS acknowledged that the correct process hadn't been followed in relation to the provision of the agreement and offered to remove the interest from the agreement of £3579.80, leaving a final payment of £9270.20. It also offered compensation of £200.

Mrs B wasn't happy with the resolution offered by MBFS and brought her complaint to this service. She wants to settle her agreement for £8000, based on a deduction of the monthly payments she's made since October 2021.

Our investigator upheld the complaint. She said she couldn't be certain what was said to Mrs B by the salesperson and wasn't able to say that there had been a misrepresentation. The investigator said she was satisfied that MBFS hadn't followed the rules because it hadn't provided Mrs B with a copy of the agreement. The investigator said that MBFS had acted fairly by offering to remove interest from the agreement and paying compensation for poor service, but said that MBFS should pay further compensation for the distress and inconvenience caused to Mrs B.

Mrs B didn't agree. She said she'd been left in a position where she had to find more money than she thought she'd need to settle the agreement.

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.

Mrs B's complaint is based on a difference between what she says she was told by the

salesperson and what the agreement says. I'll focus on the circumstances at the time the agreement was incepted. I'm unable to say exactly what was discussed between Mrs B and the salesperson. But one of the reasons why regulated credit agreements are put in writing is to obtain a record of what was agreed at the time.

Mrs B says the agreement was misrepresented to her. A misrepresentation is an untrue statement of fact which induces a consumer to enter into a contract, causing a loss to be suffered. I've considered what's most likely to have happened in the light of the available evidence and the wider surrounding circumstances.

Mrs B says she was told by the salesperson that she could settle the agreement for £6000 after 24 months. There's no written record of the discussions between Mrs B and the salesperson and I wasn't present, so I can't be certain of what was said. So, I can't be certain that an untrue statement was made. Even if the salesperson did say that the agreement could be settled for £6000, I'm not persuaded that this was the sole, or the main, reason why Mrs B entered into the agreement. Taking everything into account, there isn't enough evidence to show that there's been a misrepresentation.

That said, MBFS has acknowledged that it didn't send a copy of the agreement to Mrs B. It has also acknowledged that it has no record of the welcome pack being sent to her. This of itself hasn't caused a direct or indirect financial loss to Mrs B. And because Mrs B has had the use of the car since October 2019, I don't think it would be fair to ask MBFS to refund any monthly payments or reduce the optional final payment beyond what it has already offered to do. I think the offer to waive interest is a fair resolution to its failure to provide Mrs B with the agreement.

In relation to compensation for non-financial loss, MBFS has offered £200 for poor service. I think it's right that MBFS recognise that it failed to do what it should've done and I think the sum of £200 is reasonable. However, I also think MBFS should pay further compensation for the distress and inconvenience caused to Mrs B as a result of the service failings. I agree with the investigator that the sum of £200 is fair.

My final decision

My final decision is that I uphold the complaint. Mercedes -Benz Financial Services Limited must pay £200 to Mrs B for distress and inconvenience in addition to the sums already offered.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 1 June 2022.

Emma Davy
Ombudsman