

## **The complaint**

Mr W is unhappy with how Mercedes-Benz Financial Services UK Limited (MBFS) dealt with his request for help as a result of the Coronavirus (Covid-19) pandemic.

## **What happened**

In March 2019, Mr W was supplied with a new car through a hire agreement with MBFS. The agreement was for a period of 36 months; with an initial rental payment of £1,098 followed by 35 monthly repayments of £366.

In April 2020 Mr W contacted MBFS to ask for help as he said he was having difficulty making his payments due to the Covid-19 pandemic. He said they agreed a payment holiday for March 2020 to May 2020, and this was extended from June 2020 to August 2020.

He said MBFS told him in June 2020 that a payment holiday had not been set up, and that the amount of his monthly repayment would need to increase as he'd missed payments. He said that they also reported negative information on his credit report, and were sending him letters threatening to repossess the car.

He was unhappy that the information he'd received about the amount outstanding wasn't clear. He also said they'd told him he would receive a refund but he didn't receive one. He said that in April 2021 they credited his bank account with £1,830, but ten minutes later they took out £1,980. He said he didn't know why this happened as he said he hadn't authorised these payments.

MBFS acknowledged that they hadn't correctly processed the payment deferral for the period April 2020 to June 2020, or the second payment deferral quotation. They said this had led to them contacting him as it appeared he was six months in arrears.

They said they had contacted him in December 2020 to discuss the payment deferrals and how these would work. They said that Mr W told them he didn't want to go ahead with the payment deferral for the second period as it would lead to an increase in his monthly payments.

They said Mr W had outstanding arrears for the period April 2020 to September 2020. They said Mr W's monthly payments would increase to £420 to cover the initial payment deferral. They said he would need to contact them to arrange a plan to deal with the outstanding arrears for July 2020 to September 2020, and the arrears arising from the payment shortfall in October 2020 to January 2021.

They said he could still go ahead with the payment deferral for July 2020 to September 2020 but they would need to consider if this was affordable for Mr W – and this was likely to require a credit check.

They also explained his options if he wanted to end the agreement and return the car. They said he could return the car if he paid 95% of the outstanding rentals. Or they said he could

voluntary surrender: this would mean they would sell the car at auction and he would be liable for any shortfall.

MBFS offered £100 as compensation for their errors, and later increased this to £200. Unhappy with their response Mr W brought his complaint to this service. He told our investigator MBFS had increased his monthly payments from £325 to £585 to catch up on the arrears.

Our investigator said that MBFS had acknowledged the mistakes they'd made but she said the correspondence they'd sent to Mr W about the payment deferral was confusing and contradictory. She said that MBFS should've explained to Mr W why it was taking £1,980 from his account when it did, and they should've done more to contact him before taking the payment. She also found the information provided by MBFS about the amounts they were taking to be confusing. So she said they should increase their offer of payment in recognition of the distress caused to Mr W by £150, bringing the amount to £350. And she said they should remove any adverse information related to the payment deferral should be removed from his payment file.

Mr W disagreed. He said he felt that £350 was an insult and asked for an ombudsman's 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've 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 (if appropriate) what I consider was good industry practice at the time. Mr W was supplied with a car under a hire agreement. This is a regulated consumer credit agreement which means we're able to look into complaints about it.

#### *Payment deferral requests*

The industry regulator, the Financial Conduct Authority (FCA) issued temporary guidance, that came into effect on 27 April 2020, for customers who were faced with payment difficulties as a result of Covid-19. The purpose of the guidance was to provide *"exceptional and immediate support to customers facing payment difficulties due to circumstances arising out of coronavirus"*.

Mr W contacted MBFS about the impact the Covid 19 pandemic had on his financial situation on 28 April 2020 – the day after the FCA issued its guidance. MBFS accepts that they didn't process his request for a payment deferral promptly. They said there was a delay caused by the vast amount of requests for payment deferrals they'd received. So they failed to provide the 'immediate support' expected by the regulator.

It appears that they didn't respond to Mr W's request until 9 June 2020 when they offered the first payment holiday for the period April 2020 to June 2020. In this letter they informed Mr W that after the holiday his monthly payments would increase by £55 – they said he would need to make monthly payments of £427.

It appears that Mr W responded on 1 September 2020 confirming he wanted them to go ahead with the payment holiday. And on 29 September 2020 they asked Mr W for information about how he was impacted by the Covid 19 pandemic.

I have seen from the statements that Mr W made no payments for the period April 2020 to September 2020. So even though he didn't respond to the payment holiday 'offer' from MBFS until September 2020, his account was in the same place it would've been had he replied to the offers, and if they'd implemented the payment deferrals as they should've done.

There appears to have been a continued delay in putting the payment deferral into place. I can see that Mr W contacted MBFS in December 2020. At this point he told them he didn't want the second payment deferral to be implemented because he didn't want to pay the higher monthly payment required to clear the arrears.

### **Arrears**

Mr W accrued arrears for the period April 2020 to September 2020 as he didn't make payments during this time. These arrears are due. The guidance from the FCA states that:

*"where a customer can resume full repayments after a payment deferral, but is unable to pay the deferred amounts immediately and in full, the firm should allow them to repay the deferred amounts over the remaining term of the agreement or allow a longer period for repayment."*

MBFS told Mr W in June 2020 that his payments would increase. So I'm satisfied that he should've been aware that this was a consequence of not paying. But MBFS should've treated the arrears as if they were due to the payment deferral he was entitled to under the FCA guidance.

I would've expected them to discuss with Mr W the most suitable option for him to pay the arrears. But his agreement was for a fixed term and the guidance expects that the deferred amounts should be paid over the remaining term of the agreement. So Mr W's monthly payment would have to increase to a higher amount to keep the agreement to its fixed length of 36 months. I understand that the agreement was settled in March 2022 with no arrears outstanding. I've received no correspondence from either party about how the agreement was settled so I can reasonably assume that MBFS agreed with Mr W how he would clear the arrears.

But that doesn't mean this wasn't an unsettling time for Mr W. He asked for help from MBFS and that's what he should've received. Instead he received default notices in June 2020, January 2021, February 2021, and April 2021.

Their communication wasn't clear, and I've seen examples from MBFS' contact notes of different figures quoted at different times. I'm concerned by the lack of explanation and communication around the withdrawal of £1,980 from Mr W's account. MBFS said they had to do this to get the account up to date. They said they had to refund the repayments he'd made at the original monthly payment of £366, and then take the higher amount for the same period. But I've seen communication where they said they would "bill the missing payment" – I take this to mean they would send an invoice before withdrawing the amount. I haven't seen anything to show that communication was sent.

And the amount they quoted was different to the amounts taken. So I can see why Mr W was frustrated.

And his credit report should not have shown missed payments. And there should be no negative reporting of the period he was in arrears following the deferral. The FCA guidance states that negative reporting should not be reported to the credit file when the accrued amounts arising from the deferral period are being repaid.

I'm satisfied that MBFS failed to treat Mr W in line with expectations set out in the FCA guidance. But they have admitted their errors and the poor handling of Mr W's request.

Sending correspondence that was unclear and confusing, the delays and poor handling of his simple request for a payment deferral, and the negative impact on his credit file has caused Mr W distress and inconvenience. I don't underestimate the stress this has caused him, and his family. This took several months to resolve, and that was avoidable. And for that level of inconvenience and frustration I think that a total award of £350 is reasonable. I know Mr W will be disappointed by this award. But my role is to ensure things are put right – not to punish or fine a business.

### **Putting things right**

MBFS should've treated his request for financial assistance in line with the guidance issued by the industry regulator. If they had done so, Mr W wouldn't have been treated as if he was in arrears, and wouldn't have received default notices and correspondence that was contradictory and confusing.

To put things right, MBFS should put Mr W back in the position he would've been in had they treated him fairly and promptly in line with the FCA guidance. I understand most of these steps may have already been taken but for the purposes of this decision, to put things right MBFS must:

- Remove any adverse credit relating to the agreement from Mr W's credit file. This includes the missed payments for the payment deferral period April 2020 to September 2020, and any negative reporting related to any shortfall from September 2020 to the date the agreement ended.
- Pay Mr W £350 to compensate him for the distress and inconvenience they caused him

### **My final decision**

For the reasons explained, I uphold Mr W's complaint. 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 W to accept or reject my decision before 3 January 2023.

Gordon Ramsay  
**Ombudsman**