

The complaint

Mr S complains about charges made by Mercedes-Benz Financial Services UK Limited (MBFS) when he returned his vehicle.

Mr S is represented in this complaint, but for clarity I'll only refer to Mr S throughout my decision.

What happened

Mr S entered into a hire purchase agreement for a new vehicle with MBFS in March 2018. The agreement was for 48 months, with the vehicle due to be returned in March 2022.

Collection agents collected the car for MBFS on 18 March 2022. It was inspected upon collection, and again on 23 March 2022 at the collection agent's premises. The report from these inspections notes damage outside of fair wear and tear and the cost to Mr S as follows:

- Front screen – Cracked - £225.33
- Right hand rear quarter panel – dented 15-50mm - £35
- Right hand rear door – dented up to 15mm with paint damage - £260
- Left hand front wheel – spoke damaged - £110
- Right hand front wheel – spoke damaged - £110
- Front bumper – scratched over 50mm - £210
- Left hand rear door – scratched greater than 25mm through topcoat - £210
- Right hand front door – scratched greater than 25mm through topcoat - £210
- Left hand front door – dented with paint damage - £260
- Left hand front inner door shut – dented 15-50mm - £130
- Rear bumper – dented with paint damage - £260
- Right hand front inner door shut – dented with paint damage - £130
- Left hand rear quarter panel – dented with paint damage - £260
- Left hand front door pad – hole up to 25mm - £176
- Left hand rear door pad – hole over 25mm - £96.88

MBFS also charged Mr S £518.40 including VAT for excess mileage.

MBFS removed the charges for the front screen, the right-hand rear quarter panel, and the right-hand rear door. They said although they were satisfied the damage had been sustained to the vehicle as reported by the collection agents, the photographs didn't supply the required evidence of the damage. This left a total of £2,162.88 for Mr S to pay for the damage.

Mr S paid the charge for excess mileage, but he complained to MBFS about the charges for damage. He said the prices were extortionate and he wanted an opportunity to check the vehicle condition and reported damage in person. Mr S also asked MBFS for proof the repairs had been completed.

MBFS sent Mr S their final response to his complaint in April 2022. They said Mr S had been provided with a copy of the vehicle return standards to review prior to collection and so had an opportunity to have the work completed himself before handing the car back. They said the agreement sets out that they don't have to repair, and Mr S is liable for the estimated cost of the work where they chose not to repair. MBFS told Mr S all of the damage charged for was visible on both inspections, and so they were satisfied the charges remained payable.

Unhappy with this, Mr S brought his complaint to this service for investigation. He said he'd returned the car in a good condition for a four-year-old vehicle. Mr S was unhappy that MBFS denied him access to the car to check the damage being charged for, the sums being charged were excessive, and hadn't been justified by MBFS. Mr S said he'd like all of the charges to be waived.

Our investigator gave his view that the majority of the charges were fair, except for the charge for the left-hand rear quarter panel, which he thought MBFS should remove.

Mr S didn't agree. He said the level of the charges is fictional and no attempt has been made by MBFS to show actual loss, he wasn't able to inspect the car after the damage was assessed which is a breach of natural justice, he didn't believe the damage was outside of what would be considered fair wear and tear after four years, and the size of the damage couldn't be assessed from a photo alone.

As an agreement can't be reached, the case has been passed to me for a 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.

Mr S signed a hire agreement in March 2018. The terms of the agreement set out that the vehicle must be returned at the end of the agreement in line with the vehicle return standards. It confirms that an inspection will be carried out by trained technicians and goes on to set out the acceptable return standards, beyond which it allows MBFS to charge for the costs of either repairing and / or refurbishing the vehicle, or the cost of the consequent reduction in the sale value of the vehicle.

It's clear from the agreement that Mr S was responsible for returning the car in good condition.

Mr S has said that the level of charges applied are excessive.

I've looked into the damage charges, and I can see that the costs are included on a charging matrix on MBFS's website. So, I'm satisfied that Mr S could have reviewed these and decided whether to have the damage repaired instead of incurring end of contract charges.

I've looked at the charging structures for other manufacturers, and the charges applied by MBFS are higher than others. I have the power to require businesses to act in relation to an individual where something has gone wrong, but not to order a business to change its practices more generally. So, I can't say what MBFS should charge for damage when hire vehicles are returned, and I've taken into consideration that charges do differ by manufacturer. But I can look at whether they have applied those charges fairly. I am satisfied that MBFS apply the same charges to all consumers at the end of the hire agreement, so I don't think they've been applied unfairly in this case.

Mr S has asked for evidence that MBFS have completed the repairs, or otherwise suffered a loss in respect of the damage. The agreement allows MBFS to charge for damage outside of fair wear and tear to reflect the cost of carrying out the repair, or to reflect the reduction in the vehicles value. So, I'm satisfied that the charges can be applied, even if MBFS haven't completed the repairs.

Mr S said that MBFS didn't allow him to review the vehicle after the damage had been recorded.

Mr S's agreement states that charges will apply if the vehicle isn't returned in line with the vehicle return standards, which are included in full in the agreement and sent to Mr S six months before the agreement ended. Mr S also had an opportunity to be present at the inspection that was completed when the car was collected, but the report from the collection confirms that he wasn't present.

So, I'm satisfied that Mr S did have the opportunity to review and repair the damage in line with the vehicle return standards prior to handing the car back. And MBFS's website contains a matrix of charges that will apply so he had the opportunity to review the costs he might have to pay if he didn't have the damage repaired. He also had the opportunity to be present during an inspection of the vehicle.

It's often the case that cars are sold at auction or re-leased quickly after collection, so I don't think it's unreasonable for MBFS to have refused to allow Mr S to inspect the car after it'd been collected.

Mr S has said the car was returned in good condition for a four-year-old car, he doesn't agree that the damage is outside of fair wear and tear and the size of the damage can't be assessed from a photo alone.

Along with the vehicle return standards set out in the agreement, there are industry standard guidelines published by the British Vehicle Rental and Leasing Association (BVRLA) which set out what is considered to be fair wear and tear in respect of a hired vehicle. So, I have also considered these in deciding what it's fair for MBFS to charge on return of the car.

I haven't considered the damage to the front screen, right-hand rear quarter panel or right-hand rear door, as these have already been removed by MBFS.

The photos provided by MBFS have made use of measuring devices and zebra boards to show the size of the damage, and I've considered whether this is evident when I've looked at each area of damage.

Wheels

The hire agreement sets out in the vehicle return standards that minor scuffing or damage under 25mm to the vehicle alloy, steel rim edge or wheel face is acceptable. The BVRLA fair wear and tear standards say that scuffs up to 50mm on the total circumference of the alloy wheel are acceptable.

I've reviewed the photos provided by MBFS of the wheels, and I'm satisfied they clearly show scuffs on over 50mm of the total circumference of both front wheels. So, I'm satisfied that the charge of £220 for the two wheels has been fairly applied.

Scratches

The hire agreement sets out in the vehicle return standards that light surface scratches not through the top-coat which can be removed by polishing / touching up are acceptable. The BVRLA fair wear and tear standards say that surface scratches of 25mm or less where the primer or bare metal is not showing are acceptable, provided they can be polished out.

I've reviewed the photos provided by MBFS of the scratches to the front bumper, left hand rear door and right-hand front door, and I'm satisfied that they clearly show scratches to each area exceeding 25mm and through to the primer. So, I'm satisfied that the charge of £630 for these three items has been fairly applied.

Dents

In respect of dents, the hire agreement says that minor body dents are acceptable, provided they are less than 13mm in diameter and there are no more than four per vehicle. The BVRLA fair wear and tear standards say that 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.

I've reviewed the photos provided by MBFS of the dents to the left-hand front door, left hand and right hand front inner door shuts and the rear bumper, and I'm satisfied that they clearly show dents more than 15mm in diameter. So, I'm satisfied that the charge of £780 for these four items has been fairly applied.

I've reviewed the photos provided by MBFS for the left-hand rear quarter panel, and I'm not satisfied that this shows a dent over 15mm in diameter. So, I don't think the charge of £260 for this item has been fairly applied, and MBFS should remove it from the charges they've asked Mr S to pay.

Interior

The hire agreement sets out in the vehicle return standards that broken or damaged interior mouldings, trim pads, instrument panels, sun visors or headlining etc. are not acceptable. The BVRLA fair wear and tear standards say that the interior upholstery and trim must be clean and odourless with no burns, scratches, tears, dents, or staining; and that torn or split floor coverings and damaged surrounding trim panels are not acceptable.

I've reviewed the photos provided by MBFS of the left-hand front and rear door pads, and I'm satisfied that they clearly show holes/tears in the fabric. So, I'm satisfied that the charge of £272.88 has been fairly applied for these two items.

My final decision

My final decision is that I uphold this complaint in part. I require Mercedes-Benz Financial Services UK Limited to remove the charge for the left-hand rear quarter panel from the end of contract charges. This leaves a bill of £1,902.88 for Mr S to pay.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 29 December 2022.

Zoe Merriman
Ombudsman