

The complaint

Mr A complained that Mercedes-Benz Financial Services UK Limited (“MBFS”) had stopped covering repair and maintenance costs after he extended a contract hire agreement for his van.

What happened

Mr A acquired a new Mercedes-Benz van using a contract hire agreement in January 2017. This was a 60-month agreement, and the initial payment was £1,207.40 followed by 59 payments of £402.47. The monthly cost included two separate elements – the rental and an amount for “full maintenance”, which meant that MBFS would be responsible for the cost of repairs and maintenance as set out in the agreement. The term of the agreement expired in January 2022 and Mr A extended the term by one year. The document setting out the extension details was quite brief, and it stated the monthly payments as £329.70 plus VAT. The overall monthly payment was therefore £395.64.

Towards the end of the initial five-year agreement, the van was damaged in an accident and Mr A arranged the necessary bodywork repairs, covered by the insurance (the bodywork repairs are not part of the complaint but are noted here to set out the sequence of events). In February 2022 – just after Mr A had extended the agreement – Mr A told us that, the bodywork repairs having been completed, he took the van to the Mercedes dealership for an MOT test and service. At this point, repairs costing £2,324.38 were identified, and I have a copy of the quote for these. But Mr A was told that they were no longer covered under his hire agreement with MBFS. He said the dealership held onto the van and wouldn’t release it until payment was made.

Mr A said there was no indication on the extension agreement that repairs and maintenance would no longer be covered. He complained to MBFS about this. It responded to say that it accepted that the documentation about the extension didn’t mention that, because of the age of the van, repairs and maintenance wouldn’t continue to be covered, and it offered Mr A £200 in recognition of this error.

Mr A wasn’t happy with this – he thought that MBFS should continue to cover the cost of repairs and maintenance for the extra year of the agreement, as he thought would be the case. So he brought his complaint to this service.

Our investigator looked into this, but didn’t think Mr A’s complaint should be upheld. Mr A didn’t agree, and asked that it be reviewed by an ombudsman.

I issued a provisional decision in October 2022, explaining why I thought the complaint should be upheld. Mr A sent in more information, which I’ve discussed below. MBFS accepted my conclusions.

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.

I've decided to uphold Mr A's complaint. I'll explain why.

I set out my findings in my provisional decision as follows:

"I have copies of the original contract hire agreement, the extension document and the quote for the repairs. The extension document was very short, and only set out brief details including the monthly cost plus VAT.

MBFS told us that, because of the age of the vehicle, it was not possible to extend the repair and maintenance arrangements when Mr A extended the contract hire agreement. But MBFS accepted that none of the extension documents, including communications from its staff, stated that repairs and maintenance would no longer be covered, and so it had offered Mr A a payment of £200 in recognition of the inconvenience caused by this.

I've considered this carefully, and I accept that the age of a vehicle will usually affect the likelihood and frequency of repairs, so I can see why MBFS wouldn't normally extend the repair and maintenance agreement. However, I consider the onus was on MBFS to make clear the terms of the extension - which it has accepted that it didn't do.

Mr A was paying a single monthly payment for both elements of the agreement in the first five years, and the payment due under the extended contract – for the hire only - was quite similar. And I note that the extension document stated that "the terms and conditions of the original agreement apply". So in the absence of clear information from MBFS, I don't think Mr A could reasonably have been expected to identify the change in terms and query it at the time. Because of all this, I'm proposing to uphold Mr A's complaint."

I said in my provisional decision that I didn't consider that I could fairly direct MBFS to cover repairs and maintenance for the whole of the extended contract – Mr A wasn't paying for this level of service. But I did consider it fair for MBFS to cover the repairs needed on the van now, that would otherwise have been covered under the previous repair and maintenance agreement. I also said that, if, after the repairs are complete, Mr A wishes to terminate the extension agreement, MBFS should allow him to do so without penalty.

I said this on the basis that the van could be repaired and brought back into use. However, Mr A has confirmed that the agreement is now about to end, and he hasn't been able to use the van for some time. But he says that further repairs are now required, and he thinks MBFS should pay for these.

I've thought about what Mr A has said on this point. As Mr A says the van has not been in use it seems unlikely that it has incurred further significant wear and tear. But I don't have any information on what any further repairs might be, or whether they would've been covered under the previous repair and maintenance agreement. Mr A also hasn't been able to confirm the mileage. So at this point I cannot fairly say whether MBFS ought reasonably to cover further repair costs – and indeed MBFS has not had an opportunity to determine such costs or consider whether it will cover them. On that basis, if Mr A is unhappy with the final charges on return of the van, he should contact MBFS in the first instance and if he is unable to resolve the issue he can bring a separate complaint to this service.

Mr A also responded to the provisional decision to say that, because of storage charges at the dealership, the van was returned to him, and it has been parked on his driveway since 1 June 2022, out of use. He sent in a further invoice for £144, but this was in relation to some checks on the vehicle at the dealership, rather than storage. Mr A also said that he had lost a considerable amount of work through not being able to use the van, and had incurred hire

costs for a replacement vehicle. We asked Mr A for evidence of these costs, and he sent in van hire invoices totalling £1,215.80.

I have considered these points, but as I understand Mr A's payments under the agreement with MBFS have been suspended since April, and the value of these payments is more than the hire costs, I don't consider that I can fairly direct MBFS to pay additional compensation to cover the hire costs – it wouldn't be reasonable for Mr A not to pay anything to remain mobile. I also don't consider I can fairly direct MBFS to refund the amount of £144, as it does not relate to storage. However, I remain of the view that MBFS should refund the monthly payments made by Mr A when he was unable to use the van because it was held at the dealership.

In summary, my conclusions as set out in my provisional decision remain unchanged, and therefore I uphold Mr A's complaint. As noted above, if Mr A is unhappy with the final charges at the end of the contact, he should raise this with MBFS in the first instance.

Putting things right

MBFS should:

- Pay for the repairs specified in the estimate dated 3 Mar 2022 that would otherwise have been covered under the previous repair and maintenance agreement.
- Refund any monthly payments made under the hire agreement for the period that Mr A was unable to use the van because it was held at the dealership, adding 8% simple interest* on all refunded amounts from the date Mr A paid them to the date compensation is paid.
- Pay Mr A the £200 it previously offered (if it has not already done so).
- Remove any adverse information from Mr A's credit record (if any was added).

My final decision

For the reasons stated above I uphold Mr A's complaint. Mercedes-Benz Financial Services UK Limited should compensate Mr A as described above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 24 February 2023.

Jan Ferrari
Ombudsman