

## **The complaint**

Mr D's complaint is about charges he's been asked to pay by Mercedes-Benz Financial Services UK Limited (who I'll call "MBFS").

## **What happened**

The details of this complaint are well known to both parties, so I won't repeat them again here. Instead I'll focus on giving my reasons for my 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, whilst I know it will disappoint Mr D, I agree with the investigator's findings. I'll explain why.

Mr D acquired his car under a regulated consumer credit agreement and as a result our service is able to look into complaints about it.

The terms of the finance agreement held Mr D responsible for keeping the van in good condition. He would be responsible for any damage if the van wasn't returned in the correct condition.

## ***The process***

MBFS aren't members of the British Vehicle Rental and Leasing Association (BVRLA), the organisation that provide the industry guidelines on what is considered fair wear and tear when a vehicle is returned at the end of a lease. But I think it is reasonable to expect MBFS to be mindful of that industry guidance.

The BVRLA guidance explains that whilst some companies may provide a condition report on collection of the vehicle, others may complete the final inspection off site.

So, I don't think it was unreasonable for MBFS to complete a further and final inspection.

The BVRLA explains that where the leasing company decides for commercial reasons not to carry out the repairs it identifies, a charge can still be made to compensate it for the loss of value in the asset. If Mr D wanted to avoid the charges he could have arranged his own inspection and commissioned his own repairs but that would need to have been done before the car was handed back.

The BVRLA guidance recommends that drivers (or nominated representatives) are present when vehicles are collected. It says that all readily apparent damage and wear will be documented when the vehicle is collected, and the driver will be given an opportunity to agree with the condition report.

I am not persuaded it's likely given the relatively short delay in completing the second inspection, that the extensive damage listed (or indeed any damage) was likely to have taken place in the period between the first and second inspection and I'm not persuaded Mr D was therefore disadvantaged by not being present at that subsequent inspection.

### ***The damage charges***

MBFS have their own vehicle return standards (VRS), but the industry guidelines are provided by the BVRLA. I think it's only fair to consider that standard (for light commercial vehicles such as Mr D's) in tandem with the VRS when considering if the damage in the inspection reports can fairly be considered to be beyond normal wear and tear and chargeable.

### ***Dents***

The inspection report provided photographs of dents to the front bumper, fuel flap, nearside quarter panel, and offside front door

The BVRLA and the VRS both say that: *"dents of 15mm or less are acceptable provided the base metal is not exposed or rusted"*

I think in all four cases the damage identified in the inspector's photographs show it to be outside of the acceptable standard and therefore chargeable.

### ***Scratches***

The inspection report provided photographs of scratches to the Offside/Front/Door Interior/Sill/ Step Painted and the Offside/Rear/Door Interior/Sill/Step Painted. There was also evidence of scratches to the Offside/Rear/Quarter Panel.

The BVRLA and the VRS agree that: *"Scratches that are 50mm or less are acceptable providing that the base metal is not exposed or rusted"*.

I think the evidence shows the scratches to the Offside/Rear/Door Interior/Sill/Step Painted and Offside/Rear/Quarter Panel to be beyond 50mm and the Offside/Front/Door Interior/Sill/Step Painted has damage that has exposed the bare metal. The damage is therefore outside of the acceptable standard and is chargeable.

### ***Chips***

The inspection report provided photographs of chips to Nearside/Rear Door and Offside/Rear/Door.

The BVRLA say that: *"chips of 8mm and less in diameter are acceptable provided the base metal or material is not exposed or rusted"*.

The VRS says that: *"Paint chips that are 8mm or less in diameter are acceptable providing that there is a maximum of 4 per panel, 6 per door edge and 8 on any forward facing panel"*.

Both doors have chips that expose the base metal and whilst the offside door chips are potentially less than 8mm I think the fact they are on the swage line and are outside of what the BVRLA would consider acceptable, persuades me a charge has been fairly made.

### ***Damaged and missing items***

There are charges for two damaged sensors, a missing chip decal, and a missing door seal.

The BVRLA says that fittings should be free from damage and the returned vehicle should be legally compliant and roadworthy. I think the van couldn't reasonably be considered to have been roadworthy and/or legally compliant with the broken sensors and I think the decal could fairly be considered a *"fitting"*. I'm therefore persuaded those charges have been fairly made.

### **Odour**

The inspector found it necessary to use an odour bomb to remove the smell of smoke in the cabin. I don't think that £14.70 charge was therefore unreasonable.

### **MOT**

The MOT ran out on 27 June 2022 and the inspection was completed on 7 July 2022.

The VRS explains: *"The vehicle must be capable of passing a MOT and have a valid test certificate, which has at least 6 months unexpired cover"*.

The BVRLA doesn't stipulate a period of validity but says that may be stipulated in the lease agreement.

So, I'm persuaded the van didn't have the requisite amount of MOT cover and a charge was therefore reasonable.

### **Offside/Front/Interior/Carpet/E/Front/Interior/Step**

The carpet is loose, and the bare metal is exposed beneath it.

The VRS, in relation to the interior, states: *"Normal levels of wear and tear is allowed"*.

The BVRLA says: *"Floor coverings and surrounding trims should not be torn or split. Carpets should not have holes. Foot wells should not have holes that penetrate the base metal or material, such as rubber flooring"*.

There's no specific mention of loose carpets but I don't think it would be fair to suggest that was an acceptable return condition and in those circumstances I think MBFS were fair when making a charge.

### **Rear/Boot/Boot Floor - Damaged**

The photographs show the boot is significantly misaligned.

The BVRLA and the VRS agree that: *"There must be no distortion to any panel or deformation to the original shape of the component"*.

So I think a charge is reasonable here

### **Rear tailgate poor repair (£209.54) and damaged strap (£89.25)**

The photographs don't evidence any damage and the charges should therefore be removed.

**Putting things right**

MBFS should remove the charge for the Rear/Tailgate - Previous Repair, and Rear/Tailgate/Check Strap.

**My final decision**

For the reasons I've given above I uphold this complaint in part and tell Mercedes-Benz Financial Services UK Limited to remove the charges they have sought to make to refurbish the Rear/Tailgate - Previous Repair, and Rear/Tailgate/Check Strap.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 18 April 2023.

Phillip McMahon  
**Ombudsman**