

## The complaint

Mr O complains about charges when he returned his car at the end of a hire agreement provided by Mercedes-Benz Financial Services UK Limited ("MBFS").

## What happened

In June 2019, Mr O acquired a new car using a hire agreement with MBFS. He took the agreement over a period of 24 months and it had an annual permitted mileage of 10,000 miles (20,000 miles over the term of the agreement). When the agreement came to an end, Mr O handed the car back to a collection agent acting on behalf of MBFS and it was inspected for damage in June 2021.

Two inspections were carried out in June 2021. Initially, Mr O said an inspection was carried out and he agreed to two of the alloy wheels being scuffed. Four days later, a second inspection was completed. MBFS then sent Mr O an invoice and told him he owed £1,096 for damage to the car. Mr O, unhappy with the charges, complained to MBFS.

MBFS responded to Mr O and said they'll uphold an element of his complaint by reducing the cost of some of the charges. They said they initially charged for the replacement of a rear center console and a seat back cover, but later reduced these charges to reflect the cost of a specialist repair instead. They also explained why they felt all of the charges for damage were outside of their vehicle return standards ("VRS").

MBFS also explained to Mr O that they emailed him prior to the return of the vehicle. Within that email, it explained that when MBFS come to collect the car it will be inspected for damage. And that after the car is collected, it will go through a secondary inspection at their defleet centre and a final invoice will follow within 7-10 working days.

The remaining charged damages consisted of:

<i>Bumper front – dented</i>	£260.00
<i>Center console rear – hole</i>	£35.00
<i>Seat back cover left hand rear – cut</i>	£42.00
<i>Wheel left hand rear rim – damaged</i>	£110.00
<i>Wheel right hand rear rim – damaged</i>	£110.00
<b>TOTAL</b>	<b>£557.00</b>

Mr O remained unhappy with MBFS' response and so referred his complaint to our service. He said he had only driven the car around 6,000 miles before returning it and that he valeted it prior to the inspection. Mr O felt he should only pay for the scuffed wheels. Mr O also believed that the collection agent and those responsible for the inspection report are responsible for the additional damage to the car.

Mr O also said he hasn't seen proof that the repairs were completed by MBFS.

Our investigator found that MBFS didn't need to take any further action in relation to this complaint. In summary, he thought all the charges that have been raised by MBFS have

been fair and they fall outside of the allowed limits of what's considered fair wear and tear. He also said that while he can't be sure when some of the damage occurred, he thought it likely happened during the two years the car was in Mr O's possession, rather than during the four days it wasn't in his possession. The investigator also explained that the hire agreement that Mr O signed doesn't have a provision within it that allows him to offset any lower mileage undertaken, against any other charges raised.

Mr O disagreed with the investigator's findings. He said the initial check highlighted no body damage and the collection agent told him the car was in immaculate condition when it was collected. Mr O, was happy to agree to make a payment of £250 without prejudice to conclude this matter as it isn't clear by whom the damage was done.

Our investigator responded and explained on the initial inspection report, nowhere does it say that the car wasn't damaged. He said it simply doesn't reference the disputed areas at all. And as there is no clear evidence of the areas being undamaged at the time the car was collected, he thought it is more likely that the damage was caused at some point during the two years Mr O was in possession of the car. And so, he thought the charges had been fairly raised and should remain payable as they are.

Mr O still disagreed with the investigator's findings and the complaint was passed to me to decide.

During my investigation, I contacted MBFS and invited their comments about the damage to the front bumper. Mercedes has accepted the damage charged here is an oversight and agreed to remove the charge and credit Mr O.

*I issued a provisional decision on 6 March 2023 where I explained why I intended to partly uphold Mr O's complaint. In that decision I said:*

*"Mr O complains about charges in relation to a hire agreement. Entering into regulated consumer credit contracts like this is a regulated activity, so I'm satisfied I can consider Mr O's complaint about MBFS.*

*Mr O was charged for several different things, so I'll consider these in turn. But I've firstly thought about whether MBFS could charge him for damage. Looking at the agreement he took, it says:*

*"...you must return the vehicle...(in accordance with the Vehicle Return Standards). If you fail to take reasonable care of the vehicle you will have to pay our costs of repairing and/or refurbishing the vehicle."*

*So, considering this, I think Mr O agreed to return the car in a condition in line with the VRS and he agreed to be charged if this wasn't the case.*

*I'll go on to consider if the charges were fairly applied. As well as the VRS, I've also considered the British Vehicle Rental and Leasing Association ("BVRLA") guide to fair wear and tear. The BVRLA is a trade body that oversees the vehicle rental and leasing sector. I understand MBFS are not BVRLA members, but I'm happy this is a useful benchmark when considering what is fair and reasonable.*

*In relation to the front bumper, I've reviewed the photo from the second inspection of the car and I contacted MBFS about it to ask their thoughts. I did so as the photo wasn't clear and I wanted to enquire about a mark on one of the boards used to reflect light on to the bumper.*

*These boards are generally used to help distinguish whether dents are present on body panels. It seemed like the mark on the board was reflecting on to the bumper, which may have looked like there was a dent on the panel when there may not have been. On balance, I think it is likely there isn't a dent on the front bumper. But in any event, MBFS say they have now agreed to remove the charge for the front bumper and believe it was an oversight on their behalf.*

*So MBFS should remove the charge for the damage to the front bumper if they haven't already done so.*

*In relation to the interior of the car, the VRS says:*

*"The interior of your vehicle must be in good condition for the age and mileage of the vehicle."*

*It also says:*

*"Normal wear and tear to... trim, upholstery, etc." is acceptable.*

*The BVRLA says:*

*"The interior upholstery and trim must be clean and odourless with no burns, scratches, tears, dents or staining."*

*I've reviewed the photo of the rear center console. It shows a small mark, less than 10mm in length. Thinking about things here, and specifically the location of the mark – it being where a passenger would generally rest their arm if the center console was being used; I think it is likely this area would receive some marks to it during use of the car. Considering the age of the car and the relatively minor mark on the console, I think this falls under fair wear and tear. So it follows that I don't think MBFS have fairly charged Mr O for this.*

*In relation to the seat back cover, the VRS says:*

*"Tears, cuts, rips and holes through the seat covers, headlining and floor covering" are not acceptable.*

*The BVRLA says:*

*"The interior upholstery and trim must be clean and odourless with no burns, scratches, tears, dents or staining."*

*I've reviewed the photo of the seat. It shows a tear in the outer material, around 10mm in length. I'm satisfied this area falls outside of fair wear and tear and it follows that I think MBFS has fairly charged Mr O for it.*

*While the damage to two of the alloy wheels isn't in dispute, for completeness, I have still looked into them. In relation to the wheels, the VRS says:*

*"...Minor scuffing or damage under 25mm to the vehicle alloy or steel rim edge or wheel face..." is acceptable.*

*The BVRLA says, "Dents on wheel rims and wheel trims are not acceptable." And, "Scuffs up to 50mm on the total circumference of the wheel rim and on alloy wheels/wheel hubs are acceptable."*

*The photos of both the left and right rear wheel show scuffs along the circumference of the rim and they are over 50mm in length, in total. I'm satisfied these areas fall outside of fair wear and tear and it follows that I think MBFS has fairly charged Mr O for them.*

*Mr O believes the damage to the car, other than to the alloy wheels, must have occurred after he returned the car and during the time it was in the possession of the collection agents. As I've already said, I think the damage to the front bumper and rear center console falls within fair wear and tear. So my comments below are specifically about the seat back cover only.*

*Firstly, MBFS say when they come to collect the car it will be inspected for damage. And that when it has been collected, it will go through a secondary inspection at a specific location and a final invoice will follow within 7-10 working days. I have reviewed the initial inspection, which was completed on the day of collection. Within the report, there is a section called "Inspection details" and within it, it says, "Result: Second Inspection Required".*

*I appreciate Mr O's comments that some of the damage wasn't recorded on this initial inspection report. But I think it is clear that this report wasn't a final conclusion on the car's inspection, and that a second inspection was required. I also don't agree that because the initial inspection report didn't list all of the damage later found that means it wasn't present at this point. And generally, I'm more persuaded by the findings in the later inspection provided as it is more detailed in all areas.*

*Secondly, both inspection reports have recorded the odometer reading of the car. The initial report records it as 6,335 miles; the second report records it as 6,471 miles. There is a difference of 136 miles between the two inspection reports. I don't think this is an unreasonable amount of miles between inspections, especially considering it would likely need to be driven to the inspection site.*

*I accept there is no way to know for sure that the damage to the seat back cover didn't occur during this time or at the inspection site. There is also no way to know for sure what the collection agent told Mr O regarding the condition of the car upon collection. So, with the lack of evidence, I must consider what I think likely has happened on the balance of probabilities.*

*Considering things here, I think it is much more likely that the damage to the seat back cover occurred during the roughly two years and 6,300 miles it had covered when Mr O possessed it, rather than during the four days and 136 miles the collection agent had it for.*

*Mr O also says he hasn't seen proof that the repairs were completed by MBFS. I've thought carefully about this. The VRS says:*

*"The decision to repair the vehicle or not to repair the vehicle rests with Mercedes-Benz Financial Services UK Limited and / or the retailer or manufacturer who will undertake the Vehicle Return Standard Inspection on our behalf."*

*The BVRLA says:*

*"Charges can still be applied at end of lease in cases where the leasing company decides for commercial reasons not to repair damage or to replace missing equipment before the vehicle is sold."*

*While it isn't clear whether MBFS completed the repairs, in any event, I don't think it matters, as both the VRS and the BVRLA guidance is clear in that damage doesn't need to be repaired and charges can still be applied at the end of a lease.*

*Mr O says the car was returned with a low mileage, well below the 20,000 miles he was permitted under his agreement. Having looked through the terms, I can't see a provision within them that suggests a reduction may be made to damage charges if the car was returned with a lower mileage than the maximum allowed at the end of its term. And in any event, the lower mileage doesn't change the fact that the damage was present."*

I set out that I intended to partly uphold this complaint. And I gave both parties the opportunity to send me any further information or comments they wanted me to consider before I issued my final decision.

### Responses to the provisional decision

MBFS responded and said they partly accept my provisional decision. They say they will remove the charge for the rear center console as advised but asked me to reconsider my opinion regarding the front bumper damage.

MBFS says the mark I have referred to on the board is located on the fifth group bar, and they say the dent is on the third and fourth group bar.

Mr O hadn't responded to my provisional decision before the deadline I set.

### **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 have reviewed the photo from the second inspection again. As I've previously said, the photo isn't clear which is why I had contacted MBFS to seek clarity on it.

I am not persuaded by what MBFS has said. I say this because, on the same board, I can see smaller marks on various parts of it – most importantly, around the bottom of the third and on the fourth group bars. Ultimately, MBFS has used a damaged board to show a possible dent on the bumper, and from what I have seen, I don't think there is enough evidence to demonstrate there is a dent on the front bumper. I think it is more likely there isn't a dent. So MBFS should remove the charge for the damage to the front bumper if they haven't already done so.

In summary, I think MBFS has wrongfully charged Mr O for the rear center console, and the front bumper – and fairly applied the wear and tear guidelines in the other areas being charged which I have looked in to.

### **My final decision**

For the reasons I've explained, I uphold this complaint and instruct Mercedes-Benz Financial Services UK Limited to:

- remove the £35 charge for the rear center console.
- remove the £260 charge for the front bumper if they haven't already done so.

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

Ronesh Amin  
**Ombudsman**

