

The complaint

Mr P complains about a car he bought under a hire purchase agreement with Mercedes-Benz Financial Services UK Limited ("MBFS").

What happened

In September 2022 Mr P acquired a brand new car under a hire purchase agreement with MBFS ("the agreement"). Eight weeks later, the car broke down and had to be recovered from the roadside. A courtesy car was provided while it was being repaired.

The fault with the original car was substantial, and although the car was repaired in December, Mr P had lost confidence in the car. He asked to reject the car instead of collecting it, and to end his agreement. MBFS agreed to this.

In January 2023, MBFS offered to refund Mr P's deposit of £15,099, with interest on that refund at 8% a year from the date the deposit was paid until 10 February (being the date on which its offer would expire if Mr P didn't accept it). It also offered to refund 30% of the three monthly payments which Mr P had made since the breakdown in November. It said it would end his agreement and not report any adverse data to the credit reference agencies. And as a gesture of good will, MBFS also said it would pay him £350 for his inconvenience.

Mr P did not accept that offer. He asked for a full refund of all of his monthly payments, and more compensation for his inconvenience. MBFS increased its offer of £350 to £500, but Mr P did not accept that either. He argued that he had been told that the courtesy car was free, but by not refunding 100% of his payments since the breakdown he was effectively paying for the courtesy car. He brought this complaint to our service.

Our investigator thought that MBFS's offer was broadly fair, except that he thought that interest should be paid on all of the refunds and for the period up to the date of settlement. He did not accept Mr P's arguments. He said that there was no need for MBFS to refund the monthly payments for the period before the breakdown, nor to refund 100% of the payments made since then, because MBFS had kept Mr P mobile during the time the car was being repaired. And since the car had been available for him to collect after it was repaired (although Mr P had chosen not to collect it), it wouldn't be fair to require MBFS to refund the payments for the subsequent months.

MBFS accepted the investigator's view, but Mr P did not. He 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 agree with the redress which was recommended by our investigator.

I appreciate that Mr P was told that the courtesy car was free, but I think this just meant that

he would not be charged anything extra for it on top of what he was liable to pay under the agreement. It didn't mean that he would be refunded 100% of his monthly payments under the agreement while the original car was being repaired. So I think that a refund of 30% of the payments during that time is fair, and is in line with what our service would typically endorse in a case like this. I also don't think that MBFS should have to refund any part of the payments which Mr P made for the period before the car broke down.

It is fair to reduce a refund by an amount that reflects the use which Mr P has had of the cars. In coming to that conclusion, I have taken into account section 24(8) of the Consumer Rights Act 2015.

I agree with what our investigator said about paying interest on the refunds up to the date of settlement, as this is what our service would normally award.

Putting things right

I therefore require MBFS to do the following:

- If it hasn't already: end the agreement with nothing further to pay, arrange to remove any adverse data about the agreement from Mr P's credit file, and keep the car. (Mr P will need to return the V5 and keys, if he hasn't already.)
- Refund the deposit of £15,099, with simple interest on that refund at the rate of eight per cent a year from the date it was paid until the date of settlement.
- Refund 30% of the three monthly payments Mr P made for November 2022, December 2022 and January 2023, with interest on those refunds at the rate of eight per cent a year from the date each payment was made until the date of settlement. (But it does not need to refund any earlier or later monthly payments.)
- Pay Mr P £500 for his inconvenience.

My final decision

My decision is that I uphold this complaint. I order Mercedes-Benz Financial Services UK Limited to put things right in the way I have set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 7 September 2023. But this decision brings this case to a close, and we will not comment further on the merits of this complaint.

Richard Wood
Ombudsman