

The complaint

Mr E complains about the charges Mercedes-Benz Financial Services UK Limited ("MBFS") applied when he returned a car after his hire agreement ended.

What happened

Mr E entered into a hire agreement in September 2019. Mr E says he's unhappy with the end of contract charges that were applied when he returned the car. Mr E told us:

- The collection agent told him he had a beautiful car and there were only some scuffs on the tyres, but he then received an invoice from MBFS for £955 in respect of damages following an inspection;
- there was a problem with the car being collected initially because he says although MBFS told him an up-to-date MOT was not required, the collection agent said an MOT was needed so the car had to be collected on a low loader;
- when he was signing the collection agent's tablet, reference was made to a "dink" on the passenger door – something he says he'd never seen before – the car had been sitting on his driveway for more than a week;
- MBFS is trying to charge him for damage to the car that he didn't cause, and one of the items listed on the invoice isn't damage – it's simply cleaning fluid residue that can be wiped off;
- he returned the car with around 20,000 fewer miles on the clock – the car should be worth an extra £1,500 to MBFS.
- he's shocked to have received an invoice for £955, including £330 for the alloy wheels.

MBFS rejected this complaint. It said the first inspection did not proceed as the car didn't have a valid MOT on the day it was collected. It said a second inspection – something that all returned cars are subject to – identified a number of areas of damage and this is what was detailed on the invoice

MBFS told us that it provided Mr E with a copy of its *Vehicle Return Standards* when he first took out the finance agreement and again six months before it ended. It said this document detailed the expected return condition of Mr E's car. And it said Mr E had had ample opportunity to familiarise himself with its fair wear and tear expectations.

MBFS said it was satisfied that the damage it had identified was clearly evidenced and had been charged in accordance with the *Vehicle Returns Standards*. And it confirmed that it was owed £955.00 by Mr E. MBFS explained that the finance agreement signed by Mr E had clearly stated that "...if you fail to take reasonable care of the vehicle and fail to maintain the vehicle in accordance with the manufacturer's guidelines and / or the Vehicle Return Standards, you will have to pay our costs either of repairing and / or refurbishing the vehicle, or the cost of the consequent reduction in the sale value of the vehicle, as compensation." "If upon return of the vehicle, the vehicle...does not meet the Vehicle Return Standards...then you will compensate us for any loss that we may suffer".

Our investigator looked at this complaint and said she thought four of the charges levied by MBFS were fair, but that it should remove the other two charges; the charge for the right-hand front wheel in respect of alleged spoke damage; and the charge for the right-hand rear door shut inner. This would result in a revised invoice of £740.

MBFS reviewed our investigator's opinion and said it would remove the charge for the door shut inner. But it provided additional narrative about the damage to the alloy of the right-hand front wheel which was accepted by our investigator. She revised her findings to say that the amount that Mr E should pay was £850, and this was, in her opinion, fair.

Mr E disagrees so the complaint comes to me to decide. He says he doesn't know where the damage has come from – it must've been caused by MBFS or the collection agent, and he could've had any damage repaired before the car was collected.

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 hope that Mr E won't take it as a discourtesy that I've condensed his complaint in the way that I have. Ours is an informal dispute resolution service, and I've concentrated on what I consider to be the crux of his complaint. Our rules allow me to do that. Mr E should note, however, that although I may not address each individual point that he's raised, I have given careful consideration to all of his submissions before arriving at my decision.

Firstly, I understand why Mr E wants to see an improvement in MBFS' processes for the inspection and return of its cars. But that isn't the role of this Service, and my role isn't to punish businesses for their performance or behaviour, that's the role of the regulator – the Financial Conduct Authority. My role is to look at problems that a consumer may have experienced and see if the business, in this case MBFS, has done anything wrong. If it has, I seek to put the consumer – Mr E – back in the position they would've been in if the mistakes hadn't happened. And I may award compensation if I think it's appropriate

Having considered all the evidence and testimony from both Mr E and MBFS afresh, I've reached the same conclusion as our investigator and for broadly the same reasons. I'll explain why.

Collection issues

Mr E said MBFS told him that having no MOT wouldn't be an issue for the collection agent. MBFS disagrees. And the agent said that it couldn't collect the car without it having a valid MOT.

Where the parties disagree about what happened, I have to look at the documentary evidence to conclude what is, on balance more likely to be the case. In this particular case, I've seen a letter from the collection agent that explains the process for collecting the car. This letter says, "We can only collect your vehicle if it is safe to do so. Please make sure that your vehicle has no warning lights, and that it is road legal and in a safe to drive on the day that we collect it." So, I'm satisfied that on receipt of this letter, Mr E ought reasonably to have known that the car needed to have an up-to-date MOT certificate – it needed to be road legal.

Moreover, the Hire Agreement that Mr E signed in 2019 says, "*Where the vehicle is over three years old from the date of registration, it will need a valid MOT certificate*".

Damage charges

The terms and conditions of the agreement, signed by Mr E, sets out in some detail the acceptable return condition of the car. It clearly sets out what the acceptable conditions are, with examples, and what conditions are unacceptable. I've read this carefully, and I'm satisfied that Mr E was responsible for returning the car in good condition, but the question is whether all the charges applied by MBFS are fair and reasonable.

MBFS's inspection identifies areas of damage that it deems to be unacceptable - outside fair wear and tear – five of these are currently in dispute:

1. Wheel – left hand front – spoke damaged	£110.00
2. Wheel – right hand front – spoke damaged	£110.00
3. Wheel – right hand rear – rim damaged	£110.00
4. Quarter panel – left hand rear – dented	£260.00
5. Door – left hand front – dented	£260.00

Fair wear and tear guidelines have been issued by the British Vehicle Rental and Leasing Association (BVLRA) and these are accepted as an industry standard in determining whether any damage goes beyond fair wear and tear. So, I've also taken these into account alongside MBFS' *Vehicle Return Standards* (VRS) when deciding what is fair and reasonable for MBFS to charge Mr E

The BVRLA guidance sets out the standard regarding fair wear and tear. I've looked carefully at what it says in regard to the areas identified by MBFS. It says that:

- Scuffs up to 50mm on the total circumference of the wheel rim and on alloy wheels are acceptable. Any damage to the wheel spokes, wheel fascia or hub of the alloy wheel is not acceptable.
- Surface scratches on paintwork, bodywork and bumpers of less than 25mm are acceptable as long as the primer or bare metal isn't showing, and the scratch can be polished out.
- Dents of 15mm or less in diameter are acceptable provided...the paint surface is not broken. Dents on the swage line of any panel are not acceptable.

So, I'm satisfied that the areas identified by MBFS as damaged are indeed beyond what is recognised as fair wear and tear according to the published industry standards.

Next, I've looked at the VRS that were in place at the time Mr E signed his hire agreement in 2019. These say:

- Wheels and Tyres – *“Scuffs chips and scratches exceeding 25mm”* are not acceptable.
- Body & Paint – *“Any chipping and scratching of paintwork that has penetrated the base coat and/or has caused corrosion of any kind which cannot be polished out”* is not acceptable

I've looked very carefully at the evidence MBFS provided, and I'm satisfied that for each of the five disputed charges, the damage is outside fair wear and tear. The evidence can be seen clearly in the photographs provided by the third-party inspection agent.

I've gone on to consider whether there was any *other* reason why it would be unfair for MBFS to apply these charges. I understand that the car was returned with a lower-than-expected mileage. Mr E told us that because he drove far fewer than the contracted mileage

allowance, *“the car should be worth an extra £1500”*. But I’ve seen nothing in the agreement’s terms and conditions that would allow for Mr E to receive a discount or a credit for utilising less than the maximum permitted mileage. So, I wouldn’t expect MBFS to offer Mr E any rebate for this.

I’ve considered Mr E’s comments that some of this damage took place after the vehicle was collected from his home, but I just don’t think this is likely. I say this because MBFS appointed an independent third party, one that is recognised in the industry, to conduct an assessment. And although Mr E says that when the car was collected, none of the disputed damage was noted or highlighted to him, I think it’s more likely than not that the nature of the identified damage wouldn’t have been apparent until the car was thoroughly examined later. And this subsequent, more detailed examination was expected. When Mr E first signed his finance agreement, there’s a section on it that says an *“inspection will be carried out by trained technicians at the nominated Defleet Centre.”*

I’m satisfied that Mr E ought reasonably to have been aware that a detailed inspection would take place after the car had been collected, and that following this, MBFS would advise him of the outcome of that inspection and any charges that were due.

Given all of the above, I’m satisfied that the charges MBFS asked Mr E to pay were applied fairly and in line with its own VRS and the relevant industry guidance and that MBFS has acted fairly in respect of the charges it applied.

I know Mr E will be disappointed with the outcome of his complaint, but I hope he understands why I’ve reached the conclusions that I have.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr E to accept or reject my decision before 20 June 2023.

Andrew Macnamara
Ombudsman