

## The complaint

Miss M and Mr M have complained about damage charges applied by Mercedes-Benz Financial Services UK Limited trading as Mercedes-Benz Finance (MBFS) under a hire purchase agreement.

To keep things simple, I'll refer to Miss M throughout because she's the main complainant.

## What happened

In January 2020 Miss M acquired a used car under a hire purchase agreement with MBFS. The car was just over five years old, and I believe had covered around 42,000 miles. It cost around £13,500 and was due to be paid back over five years.

In September 2022 Miss M decided to voluntarily terminate the agreement. MBFS's agents carried out an inspection on the car when it was collected. And it carried out another inspection a few days later at the agent's inspection site, which looks to be around 100 miles away. The car had covered around 67,500 miles.

MBFS said Miss M owed it around £1,000 in relation to damage that was outside of fair wear and tear. Miss M complained. She said the car was eight years old, and that she'd returned it in excellent condition. She said there was no damage on the car when it was handed back. She says when she bought the car, she paid for a care package to cover all paintwork and damage to alloys. And that she used this to have the bumper fixed. She said she had evidenced the car was without damage when it was handed back. MBFS eventually agreed to remove the charge for the bumper, but Miss M was still unhappy. She says she shouldn't have to pay for damage that wasn't there or should be considered wear and tear. And that it was unfair MBFS was charging £300 for tyres when the car was eight years old. MBFS said the following charges were applicable:

• Tyre Right Hand Rear, gouge	<b>£149.22</b>
• Tyre Left Hand Rear, incorrect speed rating	<b>£149.22</b>
• Headlamp Left Hand, insecure	<b>£35.00</b>
• Quarter panel Left Hand Rear, dented 50mm to 100mm	<b>£90.00</b>
• Door Right Hand Rear, requires realignment	<b>£35.00</b>
• Bumper moulding rear, insecure	<b>£35.00</b>
• Tailgate pad, scuffed over 25mm	<b>£50.40</b>
• Door window trim Right Hand Rear, excessive damage	<b>£34.20</b>
• Door moulding Right Hand Rear, excessive damage	<b>£50.40</b>
• Door moulding Right Hand Front, excessive damage	<b>£50.40</b>
• Door shut inner Right Hand Rear, non-professional repair	<b>£105.00</b>

It's asked Miss M to pay £783.84 for the above.

Miss M brought her complaint to our service, but our investigator didn't make any recommendations because she thought MBFS had applied the charges fairly. Miss M didn't agree. She said she didn't think everything she'd sent in had been considered. She said the video she'd sent was clear and in perfect lighting. She reiterated the scuffed tailgate wasn't

there when the car left her home. She said the dent was caused by someone reversing into something, which caused the bumper moulding issue. She also said the rear left quarter panel wasn't dented and would've been noted on the first inspection if it was. She also reiterated that being charged around £300 for tyres on a car that is eight years old is unfair and excessive. She says the car wasn't supplied with that sort of tyre. I issued a provisional decision that said:

*Miss M acquired the car using a regulated hire purchase agreement, and our service is able to consider complaints relating to these sorts of agreements.*

#### Damage Charges

*I note the vehicle return standards are set out within the hire purchase agreement itself. The agreement sets out that when the car is returned it must be in line with the vehicle return standards. And it also says if the vehicle has not been returned within those standards MBFS is able to charge costs for either repairing and/or refurbishing the vehicle, or the consequent reduction in the sale value of the vehicle, as compensation.*

*As a starting point, I'm satisfied that by signing the agreement, Miss M agreed to the terms. I therefore don't find MBFS is acting unfairly by applying charges for damage that falls outside of fair wear and tear, as per the return standards.*

*I've gone on to think about whether (or not) the damage falls outside of those standards.*

#### Tyre Right Hand Rear, gouge

**£149.22**

*The return standards say it's not acceptable for the tyre to have any gouges, cracks, cuts, tears or plugs. The second inspection highlights what looks like a gouge with a close-up picture. But from looking at the initial inspection, I think the gouge can be seen there too. So I'm satisfied this damage falls outside of fair wear and tear. Damage to the sidewall of a tyre can be a safety issue. Miss M agreed to the return standards when signing the agreement, and I don't find a charge of £149.22 to be unfair. I've not seen anything to say MBFS will only charge the equivalent of a second hand or non-premium brand tyre either.*

#### Tyre Left Hand Rear, incorrect speed rating

**£149.22**

*The return standards say the car must conform to the original specification. And that it must have matching tyres of a size and premium band, approved by the manufacturer. The second inspection says the left-hand rear tyre was the incorrect speed rating. MBFS has said the tyres must be the same type as those originally supplied, for example run flat tyres. I'm not sure the speed rating is incorrect. It's showing as W, and MBFS hasn't supplied details of why this isn't acceptable. But I note from the pictures that the rear tyres don't match. Aside from it being outside the return standards, it's also recommended to have the same tread on the tyres on an axle. And as the return standards say they should match, I don't consider it's unfair for MBFS to charge for the price of a replacement tyre. And for the same reasons as above, I don't consider a charge of £149.22 to be unfair.*

#### Headlamp Left Hand, insecure

**£35.00**

*MBFS has said it can't accept missing, cracked, or damaged door mirror glass and housing units. So if the housing unit for the headlamp was damaged I think this would fall outside of fair wear and tear. But the problem I have is that it's not clear at all from the evidence supplied what, if anything, is wrong. The photo doesn't clearly show the headlamp housing is damaged or insecure, from what I can see. And the video doesn't show it either. I'm not sure*

*why the inspector didn't show the damage on the video if it would have been easier to show the headlamp wasn't secure. But based on what I've seen, I'm minded to say this charge should be removed as well.*

**Quarter panel Left Hand Rear, dented 50mm to 100mm**      **£90.00**

*MBFS says the left-hand rear quarter panel was dented between 50mm to 100mm. Its vehicle return standards say dents on swage lines or folder edges aren't acceptable. And that dents on high profile panels i.e., bonnets/wheel arches aren't acceptable either. The return standards say dents must be smaller than 13mm. From looking at the picture on the second inspection the area highlighted by the collection agents isn't very helpful. It's disappointing the dent wasn't picked up on the original inspection. I think there might be some indication of a small dent towards the left of the ruler. But I don't think the picture shows it's between 50mm to 100mm. It would have been helpful if the inspection had something like a zebra board used so that it would be easier to see if there was a dent. And it would've helped if the clarity was better to see how large any dent area was. On balance, given it wasn't picked up originally and the photo isn't very clear I'm minded to say this shouldn't be charged.*

**Door Right Hand Rear, requires realignment**      **£35.00**

*The inspection report says the door requires realignment. I can see there's an area to the top of the window that looks to have misaligned slightly, which wouldn't be acceptable under the return standards. I don't find a £35 charge for this to be unfair.*

**Bumper moulding rear, insecure**      **£35.00**

*Similar to the point above, the second inspection shows the bumper moulding has come away slightly, indicating it was insecure – which isn't acceptable as per the return standards. I don't find the charge of £35 is unfair.*

**Tailgate pad, scuffed over 25mm**      **£50.40**

*The return standards say the interior of the vehicle must be in a good condition for the age and mileage of the vehicle. I can see there is some sort of mark on the tailgate pad. But the photo is not particularly clear. It's not clear whether the mark could be removed with cleaning. Given the car was around eight years old when it was handed back, I don't find there's sufficient evidence to demonstrate the mark would deem the interior not to be in good condition. So I'm minded to say this charge should be removed as well.*

**Door window trim Right Hand Rear, excessive damage**      **£34.20**

*I can see the trim for the right-hand rear window is misaligned and looks like it's been damaged. I think this isn't acceptable as per the return standards. I don't find the charge of £34.20 to be unfair.*

**Door moulding Right Hand Rear, excessive damage**      **£50.40**

*I don't consider the photo of the damage to the right-hand rear moulding to be very clear. It's not obvious which part is damaged. There's lots of areas with light reflected on the photo. I've not seen enough to show this is damaged outside of fair wear and tear taking into account this was an 8 year old car – even taking the return standards into account. So I find this charge should be removed.*

Door moulding Right Hand Front, excessive damage **£50.40**

*Unlike with the right-hand rear, I think the photo on the second inspection shows the door moulding is damaged because the line of the door under the window deviates from where you'd expect it to. I consider this to be outside of the return standards. And I don't consider a charge of £50.40 to be unfair.*

Door shut inner Right Hand Rear, non-professional repair **£105.00**

*I think there's enough to demonstrate there's damage that outside of fair wear and tear in relation to the door shut inner on the right-hand rear. It looks like the paintwork is significantly damaged which is outside of the return standards. I don't consider the £105 charge to be unfair.*

Summary

*I appreciate Miss M has said some of the damage might've been caused after the first inspection. And that other damage should be considered fair wear and tear considering the car's age and mileage. I've been mindful of the age of the car when considering the vehicle return standards. I've considered the evidence Miss M has submitted. And I've thought about the likelihood of the damage occurring after the car was collected. I don't think the nature of the damage that I've set out above (not highlighted on the original inspection) suggests they most likely occurred during the trip from the collection to the inspection centre. While I appreciate the car wasn't brand new and that it looks like, on the whole, Miss M has looked after it, I think the damage highlighted above would likely lead to repair costs or it would collectively impact the resale value of the car.*

*Therefore, for the reasons given above, to resolve the complaint, I'm intending to direct MBFS to remove the charges for:*

- Headlamp Left Hand, insecure **£35.00**
- Quarter panel Left Hand Rear, dented 50mm to 100mm **£90.00**
- Tailgate pad, scuffed over 25mm **£50.40**
- Door moulding Right Hand Rear, excessive damage **£50.40**

MBFS agreed to carry out the actions within the provisional decision. Miss M responded to say she was still unhappy with the charges for the tyres. She doesn't think it's fair she's being charged the cost for what she says are high-end tyres when mid-range tyres ought to be sufficient.

**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'd like to thank the parties for their responses. I do appreciate it's a lot of money to have to spend for two new tyres. But as I said in my provisional decision, I think the two charges have been applied for fair reasons. And I've not seen anything to suggest MBFS is not able to charge for a premium brand, or that the tyres won't be replaced with a premium brand. The pricing matrix for the vehicle return standards say it can charge for replacing with a premium brand tyre. So, while I can understand why she's disappointed, I don't find I have the grounds to direct MBFS to remove or reduce the charges.

If Miss M accepts the final decision, I'd urge her to get in contact with MBFS about the outstanding debt. If she's unable to pay off the debt in one go, I'd remind MBFS to treat her with forbearance and due consideration.

### **My final decision**

My final decision is that I uphold this complaint and direct Mercedes-Benz Financial Services UK Limited trading as Mercedes-Benz Finance to remove the charges I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M and Mr M to accept or reject my decision before 28 August 2023.

Simon Wingfield  
**Ombudsman**