

The complaint

Mr J complains that a van acquired with finance from Mercedes Benz Financial Services UK Limited wasn't of satisfactory quality.

What happened

In April 2021 Mr J was supplied with a brand new van and entered into a hire agreement with MBFS.

Mr J experienced issues with a rattling noise and faults with the infotainment system. In May 2021 the supplying dealer repaired the rattling noise but couldn't find any faults with the infotainment system.

Mr J says the rattling noise was only temporarily resolved and he continued to experience faults with the infotainment system. Then in January 2022 he experienced a battery malfunction. The car was returned to the supplying dealer who replaced the battery.

After the van was returned to Mr J he noticed an electrical burning smell. The rattling noise was still present, and the radio wouldn't work at all.

Mr J complained to MBFS and asked to reject the van. MBFS didn't uphold the complaint. It said there wasn't enough evidence to show that there were grounds to reject the van. It offered Mr J £150 as a gesture of goodwill and said it would arrange an independent inspection.

Mr J brought his complaint to this service.

An independent inspection report was carried out in June 2023. The inspection identified faults with the infotainment system, a rattling in the rear load compartment and a fault with the rear seat locking mechanism. The report concluded that the faults would not have been present at the point of supply but that they had developed during the warranty period and had been subject to an unsuccessful repair attempt by the dealership.

Our investigator upheld the complaint. He said he was persuaded that the van had faults at the point of supply and had been subject to a failed repair. The investigator said that MBFS should end the hire agreement.

MBFS didn't accept the investigators view so I've been asked to review the complaint.

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.

The Consumer Rights Act 2015 is relevant to this complaint. This says that goods must be of satisfactory quality when supplied. Vehicles are of satisfactory quality if they are of a standard that a reasonable person would regard as acceptable, taking into account factors such as the age and mileage of the vehicle and the price paid. The legislation says that the

quality of the goods includes their general state and condition, as well as things like fitness for purpose, appearance and finish, freedom from minor defects, safety and durability.

The van supplied to Mr J was brand new. So, I'd expect it to be of a very high standard and to remain free from faults for a reasonable period of time.

Under the Consumer Rights Act 2015, where a fault occurs within the first 6 months of the point of supply, it's assumed that the fault was present at the point of supply and generally it's up to the business to put things right. The business is allowed one opportunity to repair the fault. If the repair isn't successful, the consumer can reject the vehicle.

After 6 months the burden of proof is reversed and it's up to the consumer to show that the vehicle wasn't of satisfactory quality at the point of supply.

I've reviewed all of the available evidence about the issues which Mr J experienced with the van. Based on what I've seen, I'm satisfied that there's a fault with the van. I say this because the inspection report states that there are faults with the infotainment system, the rear seat locking mechanism and the rear panel inner trims.

I've gone on to consider whether the van was of satisfactory quality when supplied.

Mr J reported issues with the infotainment system and the panel trims rattling within a very short time of getting the van. The supplying dealer couldn't find a fault with the infotainment system, but it did attempt repairs to the panel trims.

Mr J has told this service that the rattling noise only stopped temporarily. He's also said that he continued to experience issues with the infotainment system not working properly.

I've read and considered the inspection report. This identifies faults with the panel trims and infotainment system as well as other things. These are exactly the same faults that Mr J reported to the dealership within the first 6 months of the point of supply. The dealership attempted to repair the rattling noise caused by the panel trims, but the inspection report shows that these repairs weren't successful because the fault still exists.

I'm also persuaded that there was a fault with the infotainment system within the first 6 months of supply, but the dealership failed to diagnose it.

Based on what I've seen, I'm persuaded that the repairs were unsuccessful. The dealership has had a reasonable opportunity to repair the fault so the appropriate remedy under the legislation is to allow Mr J to reject the van.

Putting things right

I've already explained why I don't think the van was of satisfactory quality when it was supplied and why Mr J should be allowed to reject it.

Mr J has been able to use the van normally despite the faults. I think it's fair that he pays for this usage, so I won't be asking MBFS to refund any hire payments.

I understand that the rattling noise and the faulty infotainment system has caused Mr J frustration. MBFS has already offered £150 compensation in recognition of this. I think this is a fair and reasonable amount, so I won't be asking MBFS to pay anything further.

My final decision

My final decision is that I uphold the complaint. Mercedes Benz Financial Services Limited must:

End the agreement with nothing further to pay

Arrange for the van to be collected at no cost to Mr J

Pay £150 compensation for distress and inconvenience (if not already paid)

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 2 November 2023.

Emma Davy
Ombudsman