

The complaint

Ms A has complained that a car she acquired, using finance from Mercedes-Benz Financial Services UK Limited, trading as Mercedes Benz Financial Services ('MBFS'), isn't of satisfactory quality.

What happened

Ms A took out a finance agreement with MBFS for a new car. However, she's explained that when she collected it, it was dirty. She accepted the car, as the dealership said it would book it in for a valet, and GardX would be applied.

Shortly after getting the car home, Ms A reported a number of long scratches, including on the bonnet, rear bumper, handle and side door. The dealership agreed that when the car was valeted, it would also be machine polished.

Before this was done, Ms A got an inspection report, and a quote regarding the paintwork, from a third party ('T'). This stated:

"The surface marring/micro scratches also known as swirls can take place leaving a substandard finish. ... After inspection there are indeed swirls and micro swirls present across the car with deeper scratches to the front bumper passenger cover and driver's door. The plastics to the mirrors and the B/C pillars are also swirled. This is usually caused by poor washing techniques, possibly poor preparation before the coatings go on or a combo of both...."

Ms A conveyed this to the dealership, which felt that the company it usually used should complete the polish, and put right any issues. This was arranged, but when Ms A collected the car, she remained unhappy with the paintwork. The dealership advised her to take the car back to T, to complete a test patch, to see what results it could achieve. She did so and sent a video of the results to the dealership.

Ms A then complained to MBFS. It said that it wouldn't pay for any work to be carried out by T, as it wasn't one of its authorised repairers, and because it thought the swirls were normal. But it did agree to pay Ms A £363.56 as a gesture of goodwill, to reflect any distress and inconvenience caused by the dealership, when Ms A raised her concerns.

Unhappy with this, Ms A brought her complaint to our service. One of our investigators looked into what had happened, and recommended that the complaint should be upheld.

She looked at the images Ms A supplied, and was satisfied that the paintwork wasn't of satisfactory quality. She was also persuaded by the comments in T's report. She didn't think it was reasonable that Ms A had been told this was how cars were supposed to look, given her own review of the images. She also noted the dealership had agreed to have the car machine polished. Further, she felt the videos supplied of the finish achieved by T when doing the test patch, demonstrate what the quality of the paintwork could - and should - be. For these reasons, she felt it reasonable that Ms A be allowed to reject the car.

MBFS disagreed, and maintained that it's normal for factory finished paint on a vehicle to have some swirls.

The complaint was then passed to me. Although I agreed with the investigator's outcome, I thought the redress should be different. So, I issued a provisional decision to explain why, and gave both parties the opportunity to respond. In that decision, I said as follows.

First, I'm aware that Ms A has also referred to issues with a mobile app and one of the bumpers. I believe the app issue has been resolved, and there's little evidence about the bumper. As I don't need to make a finding on these points to reach a decision about the complaint, I haven't referred to them further.

I turn now to the paintwork. Having looked at the evidence provided, I can't agree with MBFS that the paintwork on Ms A's car is normal for a brand new vehicle. I think any reasonable person would be dissatisfied with the level of scratching and swirling – particularly given that it's a new car. And, like the investigator, I find T's report persuasive – and the fact it was able to achieve the results it did on the test patch.

Given this, I'm satisfied that the car wasn't of satisfactory quality when it was supplied. As Ms A raised this so early on, and no effective repair has been carried out, I agree that she should now be able to reject the car.

I'm aware that Ms A would like her monthly repayments reimbursing, but as she's had use of the car, I don't agree. She has had impaired enjoyment though, so I've thought about if I should make an award to reflect this. I think 10% of each repayment is fair, given Ms A should have been driving a new car without cosmetic flaws.

I've also thought about the fact that Ms A will likely be charged an admin fee for cancelling her insurance policy, or transferring her policy to another car. This would be a consequential loss, so should be borne by MBFS.

As regards compensation for trouble and upset, MBFS has already agreed to pay £363.56, which I feel is a significant sum. So, I'm not intending to increase this.

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.

MBFS accepted my provisional decision. Ms A explained she'd have preferred a higher level of monthly repayments refunded, but accepted my findings.

I'm not departing from my provisional findings, which I feel are fair.

Putting things right

To put things right, MBFS should:

- end the agreement with nothing further to pay, and collect the car at no cost to Ms A;
- refund the deposit, adding 8% simple interest a year, from the date of payment to the date of settlement;

- refund 10% of each of Ms A's monthly repayments, adding 8% simple interest a year, from the date of each repayment, until the date of settlement, to represent the impaired enjoyment;
- refund Ms A if she had to pay for T's report and/or subsequent test patch, adding 8% simple interest a year, from the date of payment to the date of settlement – upon receiving proof of payment from Ms A;
- reimburse Ms A for any admin fee she incurs as a result of cancelling her car insurance policy, or transferring it to another vehicle – upon receiving proof of Ms A incurring this cost;
- pay Ms A £363.56 by way of compensation for the trouble and upset caused, if it hasn't already; and
- remove any adverse information from Ms A's credit file, and mark the agreement as settled.

My final decision

For the reasons above, it's my final decision to uphold this decision. I require Mercedes-Benz Financial Services UK Limited, trading as Mercedes Benz Financial Services, to take the actions set out above, in then section entitled 'Putting things right'. In must contact Ms A to arrange collection of the car, as soon as possible.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms A to accept or reject my decision before 23 April 2024.

Elsbeth Wood
Ombudsman