

## The complaint

B complains about the charges Mercedes-Benz Financial Services UK Limited ("MBFS") applied when it returned a vehicle at the end of a hire agreement.

B is represented in its complaint. For ease of reading, any reference to B refers to the testimony of both B and its representatives.

## What happened

B entered into a 3-year hire agreement in September 2019. B says it's unhappy with the end of contract charges that were applied when it returned the vehicle; it's unhappy with the damage that it's been charged for – it says the reported damage wasn't highlighted when the vehicle was collected. B told us:

- the vehicle had a few scratches and dents on it – similar to another vehicle it had previously leased and returned – but had been returned in line with the contracted terms;
- MBFS wouldn't listen, didn't accept photographs of the vehicle, and wouldn't communicate with one of the representatives;
- it has yet to hear whether MBFS actually suffered a loss on the vehicle; or if it indeed had any repairs carried out;
- MBFS has also not confirmed whether the vehicle has been sold, and at what price – second hand vehicles have been selling at increased prices.

MBFS rejected this complaint. It said *"...you return your vehicle at the end of your agreement, our third-party collection agent...will collect your vehicle. They'll complete a safety appraisal to make sure that your vehicle is safe to be driven away, please remember that this is not a damage inspection. Therefore no damage is recorded at this point. A damage inspection will take place when your vehicle is returned to the Defleet site, and if there is damage on your vehicle that falls outside our Vehicle Returns Standards, we'll send you an invoice of the damage charges."*

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 charges for damage totalling £3,160.97 remained payable. MBFS said that an extra day's charge of £48.20 was added to the account which it noted had not been contested by B.

B disagreed and brought a complaint to this Service.

Our investigator looked at this complaint and said she thought it should be partially upheld. She explained that the standard for what constitutes fair wear and tear is set out in the British Vehicle Renting Leasing Association (BVRLA) guidelines and her role was to decide whether the charges applied by MBFS through its *Vehicle Returns Standards* were fair and reasonable.

She said she'd looked at the hire agreement and the photographs submitted by MBFS to support its position and she thought most of the damage was both visible and outside the fair wear and tear guidance and, as a result, was chargeable.

But she did identify six separate charges that she thought hadn't been adequately evidenced by MBFS; and she asked it to remove the following charges from its invoice:

- Offside/rear/quarter panel/stickers and decals/stone chip decal - £35.47
- Nearside/front/door - £56
- Nearside/rear/quarter panel/stickers and decals/stone chip decal - £35.47
- Offside/rear/door (scratch only) - £22.07
- Offside/rear/post/panel - £89.30
- Offside/front/wing - £208.02

Our investigator also asked MBFS to pay £100 compensation for the distress and inconvenience it had caused.

MBFS made some additional representations; it agreed to everything recommended by our investigator but for one of the charges – the Offside/Front/Wing – it asked that this not be removed altogether, instead it suggested it should be reduced to £22.07, and it said it would adjust B's invoice accordingly.

B disagreed with the remaining charges, so the complaint comes to me to decide. It acknowledged that there were dents and scratches on the vehicle when it was returned, but it says these were not *"outside the remit of what was acceptable for return of the vehicle"*.

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

The terms and conditions of the hire agreement, signed by B, sets out in some detail the acceptable return condition of the vehicle. 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 B was responsible for returning the vehicle in good condition, but the question is whether all the charges applied by MBFS are fair and reasonable.

MBFS' inspection identified a number of areas of damage deemed to be unacceptable - outside fair wear and tear – and these are:

1. Offside/rear/quarter panel/stickers and decals/stone chip decal	£35.47
2. Nearside/rear/quarter panel/stickers and decals/stone chip decal	£35.47
3. Nearside/front/door - scratched - flat and polish	£56.00
4. Offside/rear/door - scratched - flat & polish	£22.07
5. Offside/rear/post/panel - scratched - local paint	£89.30
6. Offside/front/wing - damaged - full panel repair and paint	£208.02
7. Nearside/front/wing - damaged - full panel repair and paint	£266.86
8. Rear/boot/inner - damaged - local repair and paint	£120.24
9. Front/grille/centre/centre vent - damaged – replace	£147.12
10. Offside/rear/quarter panel - damaged - full panel repair and paint	£208.02

11. Offside/front/door - damaged - full panel repair and paint	£208.02
12. Rear/bumper/nearside/painted - damaged – replace	£281.59
13. Rear/tailgate - damaged - full panel repair and paint	£208.02
14. Underbody/front, mid and rear undertrays - damaged – replace	£365.02
15. Front/bumper/upper/painted - scratched - full panel paint	£178.60
16. Front/bumper/lower/painted - damaged – replace	£200.67
17. Nearside/rear/quarter panel - damaged - full panel repair and paint	£208.02
18. Nearside/rear/door - scratched - flat and polish	£56.00
19. Nearside/rear/post/panel - scratched - flat and polish	£56.00
20. Nearside/rear/wheel/alloy – scratched and rust - full alloy refurbish	£79.15
21. Offside/rear/D post/inner - scratched - touch in and polish	£22.40
22. Rear/boot/inner - scratched - local paint	£89.30
23. Offside/rear/door - dented - cold metal repair	£19.61

Because our investigator recommended that charges 1-5 be removed, and MBFS agreed to this, I don't need to consider these charges further. So, I'll only be considering the charges and alleged damage that remains in dispute between the parties – charges 6-23 – including the recommendation to reduce charge 6.

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*, which B signed in September 2019, when deciding what is fair and reasonable for MBFS to charge B.

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:

- Dents of 15mm or less in diameter are acceptable provided the base metal or material is not exposed or rusted.
- Chips of 8mm and less in diameter are acceptable provided the base metal or material is not exposed or rusted.
- Scratches of 50mm or less are acceptable provided the base metal or material is not exposed or rusted.
- Any impact damage to the vehicle undercarriage is not acceptable.
- There must be no distortion to any panel or deformation to the original shape of the component.
- Any damage to the wheel spokes, wheel fascia, or hub of the alloy wheel is not acceptable. There should be no rust or corrosion on the alloy wheels

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 this hire agreement was signed in 2019, and I've looked very carefully at the evidence MBFS provided – more than 50 photographs taken by the third-party assessor when the car was inspected. Having done so, I'm satisfied that for each of the disputed charges, the damage is outside fair wear and tear. The evidence can be seen clearly in the photographs that I've examined.

I've gone on to consider whether there was any other reason why it would be unfair for MBFS to apply these charges, but I haven't been able to conclude that there are any reasons. So, I think the disputed charges for the damage have been applied fairly.

I've considered B's comments that some of this disputed damage took place after the vehicle was collected, 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. This third-party previously acknowledged two areas where it caused damage to the vehicle, and I see no reason for it to have caused further damage and not owned up to it. It simply wouldn't be in its interest to do so. It's paid for undertaking an independent inspection irrespective of any damage it finds. And although B says that when the vehicle was collected, none of the disputed damage was noted or highlighted, I think it's *more likely* than not that the nature of the identified damage wouldn't have been apparent until the vehicle was thoroughly examined later at the defleet centre.

Given all of the above, I'm satisfied that the charges MBFS asked B to pay were applied fairly and in line with both the terms and conditions of the signed credit agreement and the wider industry guidance.

I've considered what B says about seeking assurances that the repairs were all carried out by MBFS and at the cost detailed in the invoice. But it's not for this Service to tell MBFS how to go about making repairs in a situation like this, indeed MBFS doesn't *have* to make any repairs at all. The charges that MBFS makes covers the cost of the repairs or, alternatively, they compensate it for any loss in value that it might suffer due to the damage on the vehicle.

Finally, B suggests that it's seen no evidence that MBFS lost any money on the sale of the vehicle; it suggests it may have profited as the price of second hand vehicles increased. I've considered this carefully but have concluded that this isn't material to the complaint in hand.

I've already explained that MBFS is under no obligation to repair the vehicle, and it's also under no obligation to provide information about or evidence of its subsequent sale price. I say this because B would've incurred the same charges even if MBFS had been unable to sell the vehicle, or indeed chosen not to sell the vehicle. This is because the charges are applied in respect of damage to the vehicle that goes beyond fair wear and tear; the notional loss in value because the vehicle isn't returned in the condition that was agreed when the credit agreement was first signed.

### **Putting things right**

This service previously recommended that Mercedes-Benz Financial Services UK Limited remove some charges from its invoice and reduce one of the other charges. I'm now going to direct it to do this.

Mercedes-Benz Financial Services UK Limited should remove the following charges:

- |   |        |
|---|--------|
| 1. Offside/rear/quarter panel/stickers and decals/stone chip decal  | £35.47 |
| 2. Nearside/rear/quarter panel/stickers and decals/stone chip decal | £35.47 |
| 3. Nearside/front/door - scratched - flat and polish                | £56.00 |
| 4. Offside/rear/door - scratched - flat & polish                    | £22.07 |
| 5. Offside/rear/post/panel - scratched - local paint                | £89.30 |

And it should reduce the following charge to £22.07 – which it has indicated it is willing to do.

6. Offside/front/wing - damaged - full panel repair and paint

I'm also requiring Mercedes-Benz Financial Services UK Limited to pay £100 compensation for the distress and inconvenience it had caused.

**My final decision**

My final decision is that I uphold this complaint and require Mercedes-Benz Financial Services UK Limited to adjust its invoice for damages, as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask B to accept or reject my decision before 17 November 2024.

Andrew Macnamara  
**Ombudsman**