

The complaint

Mr R is unhappy with the charges Mercedes-Benz Financial Services UK Limited (“MBFS”) applied, when he rejected a van he acquired under a hire purchase agreement.

What happened

I sent Mr R and MBFS my provisional findings on this complaint on 11 July 2024. A copy of that decision is attached and forms part of this final decision.

I explained why I was planning to partially uphold Mr R’s complaint and asked both parties to let me know if they had anything to add.

MBFS didn’t respond.

Mr R responded and said the provisional decision didn’t comment on the rear armrest and the rear base seat. He asked for this to be considered.

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.

Mr R said the provisional decision didn’t comment on the rear armrest or rear base seat. However I did comment on both these areas of damage and I explained why I thought it was fair for MBFS to charge Mr R for replacing both these items.

As neither Mr R nor MBFS have provided any new information, I see no reason to depart from my provisional findings. So my final decision is the same as my provisional decision, for the same reasons, and I am partially upholding Mr R’s complaint.

My final decision

My final decision is that I partially uphold Mr R’s complaint.

Mercedes-Benz Financial Services UK Limited should put things right by reducing Mr R’s outstanding balance from £3,073.38 to £2,327.90, for the damage charges unfairly applied for the rear badges, tool kit and near side front base cover totalling £745.48.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 23 August 2024.

A handwritten signature in blue ink, appearing to read 'Sonia Ahmed', with a stylized, cursive style.

Sonia Ahmed
Ombudsman

COPY OF PROVISIONAL DECISION

I've considered the relevant information about this complaint. Having done so, I initially intend to reach a different outcome to our investigator.

I'll look at any more comments and evidence that I get by 25 July 2024. But unless the information changes my mind, my final decision is likely to be along the following lines.

The complaint

Mr R is unhappy with the charges Mercedes-Benz Financial Services UK Limited (“MBFS”) applied, when he rejected a van he acquired under a hire purchase agreement.

What happened

Mr R acquired a brand new van under a 24 month hire purchase agreement with MBFS in February 2023. The van cost around £56,000. A deposit of £50,000 was paid towards the agreement. Under the agreement, Mr R was required to make 24 monthly payments of £260.04. The van was supplied by a garage I’ll refer to as “D”.

Mr R raised a previous complaint about the quality of the van. One of our investigators recommended that Mr R should be able to reject the van. MBFS agreed to this recommendation. Following this, the van was collected in February 2024 by MBFS’ recovery agents– who I’ll refer to as “B”.

B carried out a safety appraisal at Mr R’s property on the day the van was collected. It identified damage to a number of areas of the van, but it didn’t confirm the severity of the damage. Following this, it carried out an inspection of the van after it had been collected. It said the following damage, totalling £3,073.38 was outside of fair wear and tear:

1. Front bumper, four parking sensors – replace - £580.79
2. Front bumper – replace - £456.56
3. Near side front door – damaged - £212.17
4. Near side front door – realignment required – £30.01
5. Near side front seat base cover – replace - £423.42
6. Near side sliding door – repair and refinish - £332.21
7. Rear badges – replace - £52.66
8. Tool kit – replace - £269.40
9. Rear inner seat armrest – replace – £219.56
10. Rear inner seat base cover – replace - £496.60

Mr R complained to MBFS. It said Mr R had complained that the tool kit wasn’t missing, the middle arm rest wasn’t part of the model purchased, a repair was carried out to the front bumper but this didn’t include the sensors, the realignment of the door had been reported to D as a fault, the rear badge or seat cover wasn’t damaged and when B collected the van from Mr R, it didn’t mention any damage.

MBFS issued its response to Mr R’s complaint in April 2024. It said the damage charges had been applied correctly. So it said Mr R owed it £3,073.38.

Unhappy with this, Mr R referred a complaint to this service. He said he knew about the near side front door dent, but no damage was mentioned by B when the van was collected

Our investigator looked into the complaint and said he thought MBFS should remove the charge for front bumper parking sensors, the rear badges and the rear boot complete tool kit. He said the remaining charges were applied fairly in line with the Vehicle Return Standards (“VRS”).

Mr R disagreed and said there was also no damage to the arm rest or the front bench.

MBFS agreed to remove the charges for the rear badges and the rear boot complete tool kit. It said the charge for the front bumper parking sensors remained as B’s report showed cracked and rippled paintwork and various chips and dents. It removed charges totalling £322.06.

As Mr R and MBFS remain in disagreement, the complaint has been passed to me to decide.

What I've provisionally 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.

Where evidence is incomplete, inconsistent or contradictory, I reach my view on the balance of probabilities – in other words, what I consider most likely to have happened in light of the available evidence and wider circumstances.

I've read and considered the whole file and acknowledge that Mr R has raised a number of different complaint points. I've concentrated on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it – but because I don't think I need to comment on it in order to reach what I think is the right outcome. The rules of this service allow me to do this.

Mr R complains about a hire purchase agreement. Entering into consumer credit contracts such as this is as a lender is a regulated activity, so I'm satisfied I can consider Mr R's complaint against MBFS.

The VRS are set out in Mr R's hire purchase agreement and these explain the standards that MBFS expected the van to meet on return. MBFS also has further examples and guidance of VRS listed on its website. When Mr R acquired the van under the hire purchase agreement, he agreed to return the van in line with the standards set out in the VRS. And he agreed that MBFS would be entitled to charge him for reasonable repairs if the van didn't meet the VRS standards.

Front bumper, nearside front door, nearside sliding door and front bumper parking sensors

B's condition report identified that the front bumper and the near side sliding door had unsatisfactory repairs and that the nearside front door was damaged.

It also said the four parking sensors on the front bumper had an unsatisfactory repair. MBFS said there was scratched paintwork around the sensors.

In relation to body and paint, the VRS say:

“Dents that are 15mm or less in diameter are acceptable, provided the base metal is not exposed or rusted.”

Any previous repairs to the body and paint must be done to an acceptable standard. Evidence of poor colour matching, ripples, preparation marks, visible overspray, masking lines or excess dirt in paint are therefore not acceptable.”

I've looked at the photographs provided by B. These show a painted front bumper, but the paint is rippled, patchy and discoloured in some parts. The photograph for the near side sliding door also shows ripples and dirt where it has been repainted. I don't consider that these repairs have been carried out to an acceptable standard.

The photographs also show a dent in the near side front door which is more than 15mm and a zebra board is shown in one of the photographs showing the distortion of the door, as a result of the dent. Mr R told MBFS he was aware of this damage.

I've looked at the photographs provided by B which show the sensors. These show each of the individual sensors, each with varying bits of white paint on the rim of the sensor. Mr R appears to have told MBFS that a repair was carried out to the front bumper, but said the repair didn't include the sensors. However, where a repair has been carried out, it appears from the photographs that some paint has been applied to the sensors. Whilst I appreciate Mr R may not have intended to have paint applied to the sensors as part of a repair, paint appears to have been applied to them. I understand that any dirt or tampering can lead to

the sensitivity of the sensors being affected. And so, I don't consider that repairs to the bumper have been carried out to an acceptable standard.

As a result of this, I think it's fair for MBFS to charge Mr R for the repairs to the front bumper, the near side sliding door, the nearside front door and for the four front bumper parking sensors, as the damage identified by B is not acceptable under the VRS.

Near side front door

All parties agree that there was an issue with the door alignment. A job sheet from March 2023 shows Mr R complained about the passenger side door not closing. However, no fault was found by D. The van was collected by B in February 2024. It's unclear what caused the alignment issue with the door by the time it was collected. Mr R said D was due to repair this under warranty. However, none of the emails between Mr R and D mention an issue with the door and whilst warranty repairs were agreed to be carried out by D in December 2023, these didn't include any repairs to the near side front door.

The VRS say the following is not acceptable:

"Major leaks or defects in the driveline, mechanical, electrical, electronic, compressed air, air valve, hydraulic components or systems."

In light of this, because the door had a mechanical defect at the point it was returned, I think it's fair for MBFS to charge Mr R to correct the alignment.

Rear inner seat armrest and rear inner seat base cover

In relation to the interior, the VRS say the following is acceptable:

"Normal levels of wear and tear is acceptable."

"Any seat cover repairs must be to an acceptable standard."

The VRS say the following is unacceptable:

"Any stains or discolouration of a permanent nature."

Tears, cuts, rips and holes in seat covers."

Broken or damaged interior mouldings."

All interior upholstery, seats, mouldings, floor coverings and fixtures & fittings must be free from tears, cuts, rips and holes."

And it says:

"You must return the vehicle together with everything supplied with the vehicle to us at your own expense (in accordance with the Vehicle Return Standards). If you fail to take reasonable care of the vehicle you will have to pay our costs of repairing and/or refurbishing the vehicle."

I can see from B's photographs that there is a rip to the inner seat cover and that the rear inner seat armrest is missing. Mr R has said the video recorded by B doesn't show the armrest is missing. This is partially correct as the video only shows one side of the inner seats and shows an armrest present. However, the video doesn't show the other side. The photographs provided as part of B's report, show the inner seat armrest missing the other side.

As a result of this, because rips to seat covers are considered unacceptable under the VRS and the armrest was missing, I think it's fair for MBFS to charge Mr R for the replacing both these items.

Near side front seat base cover

The photograph's provided by B show the near side front seat base cover has come apart.

Notes from Mr R's previous complaint involving this van, show that MBFS contacted D and it confirmed it secured the trim on the passenger seat. A job sheet from D in July 2023 states that Mr R complained that the trim on the edge of the front passenger seat had come away. The notes state, "*Resecured, customer to monitor*".

It seems there was an actual fault with the trim on the near side front seat base cover that D had carried out a repair for. Whilst I agree that the van was returned with the trim coming away at the near side front seat base cover, I think is more likely than not due to a defect with the seat cover rather than due to damage caused by Mr R.

I say this because when the initial repair was carried out, the van had only covered around 9,000 miles and was around five months old. I can see that Mr R complained to D about the issue again in December 2023, which was around five months after his initial complaint and the repair. It doesn't appear this issue was ever addressed by D when Mr R raised it in December 2023. Whilst it's unclear why the issue occurred, I don't think it should have occurred after a repair had already been carried out. Mr R was advised to monitor the issue in July 2023, which he appears to have done so, by reporting the issue to D. So I'm not persuaded that the near side front seat base cover was of satisfactory quality.

In light of this, I don't think it's fair for MBFS to charge Mr R for the cost of the near side front seat base cover.

Rear badges and tool kit

I understand that MBFS has confirmed it has removed the charges for the cost of replacing the rear badges and the tool kit. I've reviewed both charges and I agree that these charges should be removed as there doesn't appear to be damage to the rear badges and a tool kit wasn't provided with the van. So I agree that it's not fair and reasonable for MBFS to charge for the replacement of these items.

Has MBFS acted unfairly in any other way?

Mr R says he was told by B no damage had been found when it carried out an initial inspection at his property at the time the van was collected. However, the VRS confirm that when a van is collected, B will complete "*a visual and safety appraisal at a location of your choice to make sure that your van is safe to be driven. Please remember this is not a vehicle return inspection. A full return inspection will take place when your vehicle arrives at [location]*".

In light of this, it's clear B was simply checking if the van was safe to drive when it collected the van from Mr R. Whilst B may well have said that there was no damage identified, it would have only become aware of any actual damage when a return inspection was carried out. So I don't think MBFS has acted unfairly in any other way.

My provisional decision

My provisional decision is that I intend to uphold Mr R's complaint. I'm minded to instruct Mercedes-Benz Financial Services UK Limited to put things right by reducing Mr R's outstanding balance from £3,073.38 to £2,327.90, for the damage charges unfairly applied for the rear badges, tool kit and near side front base cover totalling £745.48.

Sonia Ahmed
Ombudsman