

## **The complaint**

Mr J is unhappy with the financial remedy offered by Mercedes-Benz Financial Services UK Limited (MBFS) for a faulty car they supplied to him under a hire purchase agreement.

## **What happened**

In April 2023 Mr J was supplied with a used car through a hire purchase agreement with MBFS. He paid an advance payment of £19,501 and the agreement was for £34,578.68 over 48 months; with 48 monthly payments of £313.91. At the time of supply, the car was over two years old, and had done 21,439 miles.

Mr J complained about faulty brakes. He said the brake warning light came on. He said it came back on again after he'd had the brake fluid topped up. He said he called the breakdown service and it told him the car was too dangerous to drive. He said the car was taken to a local garage. He said it told him the repair wasn't covered by the warranty. He said it also told him the part that had failed had been worked on previously. He says the car was supplied to him with this fault.

MBFS upheld Mr J's complaint about the unsatisfactory quality of the car supplied to him under the hire purchase agreement. They accepted that the car had multiple issues in the first 12 months of the agreement, and that it had been off road since March 2024.

MBFS said they would settle the agreement, collect the car at no cost to Mr J, refund his deposit on a pro-rate basis to reflect the 11 months he'd had the car, and refund monthly payments from when the car was off the road. They also offered £250 as a gesture of goodwill for the inconvenience caused to Mr J.

Mr J was unhappy with this response as he wanted his full deposit returned. So he referred his complaint to our service for investigation.

Our investigator agreed that it was right for MBFS to accept rejection of the car. He also agreed with the return of the monthly payments. But he said MBFS should return the full deposit to Mr J, and he said an award of £350 more accurately reflected the distress and inconvenience caused to Mr J.

MBFS didn't agree with the investigator. They didn't give any reason or explanation why. Because they didn't agree, this matter has been passed to me to make a final decision.

## **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 done so, I've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Mr J was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we are able to investigate complaints about it.

The Consumer Rights Act 2015 (CRA) covers agreements such as the one Mr J entered into. Under this agreement, there is an implied term that the goods supplied will be of satisfactory quality. The CRA says that goods will be considered of satisfactory quality where they meet the standard that a reasonable person would consider satisfactory – taking into account the description of the goods, the price paid, and other relevant circumstances.

### Undisputed Fault

In this matter MBFS accepted there were problems with the car, and that the faults were likely to be present when the car was supplied to Mr J. As such, I'm satisfied that I don't need to consider the merits of this issue within my decision. Instead, I'll focus on what I think MBFS should do to put things right.

### **Putting things right**

MBFS agreed to settle the finance agreement and collect the car at no cost to Mr J. They also agreed to refund monthly payments paid since the car was off the road. They offered £250 to reflect the inconvenience caused to Mr J. But Mr J wasn't happy that he wouldn't receive his full deposit.

### Deposit

MBFS agreed to refund the deposit Mr J paid – but *“on a pro rata basis rather than in full”*.

It's not disputed that Mr J paid a deposit of £19,501, and this is clearly shown on the agreement. I see no reason why MBFS should not refund the full deposit to Mr J. This will put him back in the position he would have been in had MBFS not supplied him with a car that was not of a satisfactory quality. He's paid for his usage through his monthly payments so I don't think it's fair that MBFS retain any part of that deposit.

### Payment Refund

It's not disputed that the car was off the road and undrivable since March 2024. I've seen no evidence that MBFS supplied Mr J with a courtesy car since then. As such, he was paying for goods he was unable to use. For the reasons already stated, I'm satisfied Mr J was not able to use the car due to it being of an unsatisfactory quality when it was supplied, and because MBFS failed to keep him mobile, I'm satisfied they should refund to him any monthly payments he made since March 2024.

### Storage Costs

Mr J provided evidence that the dealer was pursuing him for storage costs incurred whilst the car was with it after it had diagnosed the faults. Those are costs that wouldn't have been incurred if the car had been of a satisfactory quality when supplied. So in this instance I think it's only fair that MBFS pay these costs.

This cost wasn't included in MBFS' final response, and it wasn't covered by our investigator in his view. So I wrote to MBFS and invited them to comment on my intention to uphold this complaint, and to require them to pay the storage costs.

MBFS responded, confirming they would discuss the storage costs with the dealer, and arrange for the car to be collected. Because they agreed, I'm including those costs in my final award.

### D&I

I'm satisfied that Mr J has been inconvenienced by the faults with the brakes. He has described the impact this had on him, especially when told he had been driving with his daughter in an unsafe car. It was also inconvenient and for him having to arrange for the car to be repaired, and by this repair being unsuccessful. He's also described the detrimental impact this has had on his mental health. So, I think MBFS should pay him £350 in compensation to reflect the distress and inconvenience caused.

Therefore, MBFS should:

- end the agreement with nothing more to pay;
- collect the car at no cost to Mr J;
- pay the storage costs, or if he has paid the costs, refund the costs to Mr J on receipt of invoices/receipts;
- remove any adverse entries relating to this agreement from Mr J's credit file;
- refund the £19,501 deposit Mr J paid (if any part of this deposit is made up of funds paid through a dealer contribution, MBFS is entitled to retain that proportion of the deposit);
- refund the monthly payments paid by Mr J from March 2024 when the car has been undrivable;
- apply 8% simple yearly interest on the refunds, calculated from the date Mr J made the payment to the date of the refund<sup>†</sup>; and
- pay Mr J an additional £350 to compensate him for the distress and inconvenience caused by being supplied with a car that wasn't of a satisfactory quality.

<sup>†</sup>If MBFS considers that tax should be deducted from the interest element of my award, they should provide Mr J with a certificate showing how much they have taken off so he can reclaim that amount, if he is eligible to do so.

### **My final decision**

For the reasons explained, I uphold Mr J's complaint about Mercedes-Benz Financial Services UK Limited, and they are to follow my directions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 24 March 2025.

Gordon Ramsay  
**Ombudsman**