

The complaint

Mr F complains that a new car he acquired via a hire purchase agreement with Mercedes-Benz Financial Services UK Limited ("MBFS") wasn't of satisfactory quality. He says that although the business has made a settlement to him, the amount offered wasn't fair when considering his loss of enjoyment and the distress and inconvenience caused to him by dealing with a faulty car over eight months.

What happened

In March 2023 Mr F entered into a four-year hire purchase agreement for a new car with MBFS. The monthly payments were set at £678.15, and the agreement had an annual permitted mileage of 8000.

Mr F says that on the day he collected the car he experienced a fault whenever he used the brake as the car would emit a loud bleeping noise. He tried to have the fault fixed with the supplying dealer but says they weren't able to assist so he changed to another dealership.

Mr F says that to drive the car he had to turn off the car's sensors and he thought this was dangerous.

Between May and December 2023, the car had to go in for repairs four times. These repairs all concerned the same issue about faulty sensors. For the first two repairs, the car was at the garage for a day, but the third repair took around one week, and the final repair took around five weeks. The car was fully repaired in December 2023 and returned to Mr F.

Mr F complained to MBFS about the quality of the car though he confirmed he didn't wish to reject it now that it had been repaired.

MBFS agreed the car hadn't been of satisfactory quality at its point of supply to Mr F. It accepted that Mr F hadn't been able to use the car for around six weeks in October and November 2023 and had been caused distress and inconvenience having to deal with the faulty vehicle. It said it would be fair to reimburse Mr F 20% of October's and November's payments plus £400 compensation. MBFS said in reaching this decision it had also taken into account that a courtesy car had been offered to Mr F whenever the car went in for repairs although Mr F had chosen to decline this.

Mr F was unhappy at MBFS's decision about his complaint and contacted this service. He said he didn't think the offer was fair and disagreed that a courtesy car had been offered to him for each repair. He said he had only had this offer for the first repair but had declined it then as the car was only in the garage for one day. He said having to deal without the car when it went in for the final two repairs had caused him additional expense and inconvenience.

Our investigator didn't recommend Mr F's complaint should be upheld, he said he thought MBFS's offer had been fair and in line with what this service would expect. He said, that having listened to a call between Mr F and MBFS at the time it was deciding what a fair settlement would be, Mr F had told MBFS that he had been offered a courtesy car by the

garage when the car was repaired, and he had no complaint about that.

MBFS agreed with the view of our investigator, but Mr F disagreed. He said this settlement offer didn't take into account that he had to use the car for eight months with the sensors deactivated as otherwise the noise the car made when braking made it undrivable. He also said he thought this had made the car dangerous to use. Mr F added that he still disputed he had been offered another car whenever this car had to go in for repairs.

As the parties had been unable to reach an agreement, the complaint was passed to me. I issued a provisional decision along the following lines.

It was agreed that the car wasn't of satisfactory quality when Mr F had acquired it and that it had required multiple repairs. The issue for me to decide here, was what would be a reasonable and fair settlement for Mr F having had to deal with the faulty vehicle up until it was finally repaired.

I'd seen that MBFS has said it would have supported Mr F rejecting the car if he had wished to, but he had wanted to keep it. I thought that MBFS had acted fairly when it made that enquiry with him. And as Mr F had decided he wanted to keep it, then I also thought MBFS had acted fairly in looking at a settlement which included compensation for the inconvenience and distress caused to him as well as some reimbursement of the monthly payments that had been made as Mr F had been unable to use the car while it was being repaired.

MBFS said, when considering reimbursements of the monthly payments when the car was away being repaired, that where a customer had been offered or provided with a loan car to cover repairs it wouldn't reimburse 100% of the rental for that period. It said it thought here a 20% reimbursement would be fair but that an additional £400 would also be fair to recognise the impact dealing with the car's issues would have caused Mr F.

Mr F said he didn't think he had been offered a loan car by the repairing dealership other than when the car went in for its first repair. He said he wasn't aware when the car went in for the third and fourth time how long the repairs would take as parts had had to be ordered. However, he hadn't been able to provide any evidence of additional travel costs that he had incurred.

I appreciated Mr F didn't agree a courtesy car had been offered but I had listened to the call between him and MBFS when it had contacted him to discuss his complaint, I thought Mr F had been clear at that time that he didn't have any complaint about the dealership nor about any failure by them to offer him the use of another car while his was in for repairs. So, I thought over time Mr F may have forgotten what had been said. And where evidence is contradictory then I have to decide what the most likely thing to have happened is. Here without evidence that Mr F had incurred extra travel costs and together with his comments to MBFS about having been offered another car to use while his was in for repairs, I didn't have sufficient evidence to reasonably say Mr F hadn't been offered the use of a courtesy car. On balance, I thought it was more likely there had been an offer and that Mr F had decided not to accept it. So, I didn't think MBFS had acted unfairly when it decided not to reimburse the full monthly payments for October and November to Mr F.

However, while I'd seen that MBFS had offered Mr F £400 compensation for the impact on him dealing with the faulty car, I didn't think that offer was fair given the length of time (eight months) Mr F had to drive the faulty car. He had reasonably expected to have a new fault-free car to enjoy, but this hadn't been the case from March until December 2023. He had had to deactivate the sensors and although the car was still driveable, I could appreciate Mr F would have been concerned that this safety feature wasn't available, and I accepted that

this would have substantially affected his enjoyment of having a new car. I've also seen that Mr F only drove around 2000 miles in that time when he would have expected to drive nearer 6000. I thought that confirmed his reluctance to use the car as he had planned.

I therefore thought that there should have been a reduction to all of Mr F's monthly payments for the period March to December 2023 to reflect his spoilt enjoyment of the car and the lack of this safety feature. I thought it would be reasonable for there to have been a 20% reduction applied to all the monthly premiums for that period.

So, I agreed with Mr F that the settlement offered by MBFS hadn't gone far enough in all the circumstances. I intended to uphold his complaint and ask MBFS to do the following:

- Pay Mr F £400 compensation for the inconvenience and distress of having to deal with the faulty car.
- Reimburse Mr F 20% of each of the monthly payments made by him between March and December 2023 when the car was repaired for loss of enjoyment. Interest should be added to this amount at the yearly rate of 8% simple from the date of payment until the date of settlement.
- Reimburse Mr F a further 20% of the monthly payments made in October and November 2023 as he was unable to use the car in those two months while it was being repaired. Again, interest at the yearly rate of 8% simple should be added to these amounts from the date of payment until the date of settlement.

MBFS has agreed with my provisional decision. Mr F has reiterated that he disputes he was offered a courtesy car on all occasions the car had to go in for repairs.

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 reviewed the evidence and the conclusions that I reached; I haven't changed my mind that this is a fair outcome in respect of Mr F's complaint even though I appreciate Mr F challenges the offers of a courtesy car were made for all of the times the car went in for repairs.

As set out above, I think the phone call between Mr F and MBFS, when it discussed his complaint with him, is an important piece of evidence about the courtesy car offers and I have relied on its contents. During this call, I think Mr F was clear he had no issue with the dealership's handling of the repairs and that this had included the offers of courtesy cars.

As explained above, I think it's more likely than not that courtesy cars were offered though I don't know why Mr F declined them. I've seen that Mr F did have the availability of another car though it may have been that some of the repairs took longer than anticipated. However, as I think the offers were made, then I think MBFS acted reasonably in taking that into account when looking at a settlement for the period Mr F was without the car.

But, although I think MBFS acted fairly over its approach to the October and November 2023 period, I still don't think it considered the eight months Mr F had had to use the car with the sensors deactivated nor about the impact this would have had on his enjoyment of having a new car. I think the 20% reduction for each of the monthly payments in that period is fair.

For the reasons set out above, I'm upholding Mr F's complaint.

Putting things right

I'm asking MBFS to do the following:

- Pay Mr F £400 compensation for the inconvenience and distress of having to deal with the faulty car.
- Reimburse Mr F 20% of each of the monthly payments made by him between March and December 2023 when the car was repaired for loss of enjoyment. Interest should be added to this amount at the yearly rate of 8% simple from the date of payment until the date of settlement.
- Reimburse Mr F a further 20% of the monthly payments made in October and November 2023 as he was unable to use the car in those two months while it was being repaired. Again, interest at the yearly rate of 8% simple should be added to these amounts from the date of payment until the date of settlement.

My final decision

As set out above, I'm upholding Mr F's complaint. I'm asking Mercedes-Benz Financial Services UK Limited to do the following:

- Pay Mr F £400 compensation for the inconvenience and distress of having to deal with the faulty car.
- Reimburse Mr F 20% of each of the monthly payments made by him between March and December 2023 when the car was repaired for loss of enjoyment. Interest should be added to this amount at the yearly rate of 8% simple from the date of payment until the date of settlement.
- Reimburse Mr F a further 20% of the monthly payments made in October and November 2023 as he was unable to use the car in those two months while it was being repaired. Again, interest at the yearly rate of 8% simple should be added to these amounts from the date of payment until the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 12 February 2025.

Jocelyn Griffith
Ombudsman