

The complaint

Mrs S complains that the end of contract charges she received from Mercedes-Benz Financial Services UK Limited ("MBFS") after handing back a car were unfair.

What happened

In February 2021 Mrs S entered into a four-year hire purchase agreement for a new car with MBFS. Included in the terms and conditions of the agreement it states that when the car is handed back at the end of the agreement its condition must be in line with the Vehicle Return Standards. And that the vehicle on return will be subject to a "Vehicle Return Standard Inspection which will be carried out by trained technicians at the nominated Defleet Centre". The agreement then sets out clearly what damage/wear to the car will and won't be considered acceptable and explains that if the customer fails to maintain the car in line with the Vehicle Return Standards, then they will be liable for the repair costs. It also explains that it will be a matter for MBFS as to whether the car is repaired or not.

In June 2024 Mrs S decided she wished to voluntarily terminate the agreement and return the car. She also decided that she would hand the car back to the dealership rather than have the car collected by the third-party company used by MBFS.

Mrs S took the car to the dealership planning to return it but although it undertook a visual health check the dealership told Mrs S that she needed to contact MBFS and complete the voluntary termination process. The dealership declined to take the car at that time. This health check report noted an "amber" issue with the brakes and that "all 4 alloys slightly scuffed, general wear and tear, front bumper has stone chips, general wear and tear, front bumper silver trim bubbling".

Mrs S called MBFS who explained the voluntary termination process had altered slightly. The agent also explained that there would be no charge for having the car collected but Mrs S said she would take it to the dealership herself. During this call it was also explained that the car would be inspected and that if damage was found that was beyond fair wear and tear then end of contract charges would be raised and sent out about 14 days later.

Mrs S says she returned the car to the dealer who inspected the car for a second time, and they had said it was in good condition. She said she was shocked to then receive an end of contract invoice from MBFS in the amount of £590 for damage to three of the alloys and a dent which had damaged the paint on the left-hand rear door. Mrs S challenged the invoice with MBFS.

MBFS said that the car had been inspected around 12 days after Mrs S had taken it to the dealership by the third-party company. The damage to the three alloys and the door was all considered to be beyond fair wear and tear when applying the Vehicle Return Standards set out in the agreement and was therefore considered chargeable. It said that the vehicle health check carried out by the dealership had only been as to whether the car was roadworthy and was not a Vehicle Return Standard Inspection.

Mrs S complained to MBFS as she said the dealership had inspected the car and found the

damage to the alloys to have been fair wear and tear, she disputed there had been any dent to the rear door.

MDFS didn't uphold her complaint. It said that the damage recorded by the third-party company, which had also be photographed, was beyond fair wear and tear and had been correctly charged for. MBFS said that if Mrs S believed the damage to the door had happened at the dealership, then she should raise that with them.

Mrs S was unhappy at MBFS's response and complained to this service. She said the dealership had inspected the car on two occasions and had said it was in good condition although she acknowledged that there was some minor scuffing of the alloys which she did not think was more than 50mm in size.

Mrs S said she was unaware that the car would be subject to another inspection to those carried out by the dealership and the Return Vehicle booklet she had had set out that it was important for a customer to be present when the car was inspected. It also said that if the vehicle was returned via local retailer, then there would be the opportunity to discuss potential damage charges. Mrs S said she hadn't been given an opportunity to be present at the inspection.

Our investigator didn't recommend that Mrs S's complaint was upheld. He said he acknowledged that the vehicle health check carried out by the dealership had led Mrs S to think the car's condition was satisfactory when she returned it, but this inspection wasn't conducted within the detailed guidelines set out in the agreement. He said the damage appraisal had been a different type of inspection and it had been documented with photos which provided evidence of the damage found being outside fair wear and tear. Our investigator said he was satisfied on the evidence produced during the appraisal had shown that the damage to the three alloys and the dent to the car's door was beyond fair wear and tear and so he thought the damage invoice had been fair.

Our investigator, having listened to calls between Mrs S and MBFS when she was seeking to voluntarily terminate the agreement, said it had been explained to Mrs S that once the car had been handed back to the dealership there would be a second inspection after which a condition report would be sent out around two weeks later. He said the damage had been charged for in line with the Vehicle Return Standards set out in the agreement.

Mrs S disagreed with our investigator's view. She said the pre-contract information set out there could be a charge if the car was collected by the third-party company and that had influenced her decision to hand it back to the dealership. Mrs S said the car had also been inspected for a second time when she had dropped it off and she hadn't been told there would be a third one.

Mrs S also disagreed that the photos of the damage found to the alloys was sufficient to warrant the charges and strongly disputed there had been any damage to the car door. She said she had measured the damage herself to the alloys and the scuffs had been less than 50mm.

Mrs S said that MBFS had treated her unfairly, she hadn't had the opportunity of being present for the inspection which in the booklet she had received had said was important as it would give an opportunity to view any damage considered outside fair wear and tear. She said this booklet had also said if the car was handed back to the dealership, then there would be an opportunity to discuss potential damage charges then and that hadn't happened. Mrs S said she wasn't liable for the charges raised in the end of contract invoice.

As the parties were unable to reach an agreement the complaint has been passed to me. I

issued a provisional decision along the following lines.

The hire purchase agreement signed by Mrs S set out that it was her responsibility to maintain the car and that when the vehicle was returned its condition must be in line with the Vehicle Return Standards. If the vehicle didn't meet those standards, then damage charges would arise. The agreement also stated that on return the vehicle would be inspected by trained technicians at a Defleet centre. So, I thought it was clear the car would have a full condition appraisal once handed back.

I'd seen that Mrs S had arranged a vehicle health check with the dealership before formally terminating the agreement and returning the car. I didn't know what the dealership had said about this check in respect of the car being assessed against the standards set out in the agreement because this inspection hadn't been the same thing. This inspection would have been looking at the road worthiness of the car and wouldn't have been as detailed. However, although Mrs S had thought the car had been adequately assessed I didn't think I could reasonably say that this misunderstanding was MBFS's fault. Listening to the calls between Mrs S and MBFS, I thought the agent had made it clear that the car would be subject to a full appraisal once it had been handed back.

I also thought the agent was clear that Mrs S wouldn't be charged if the car was collected from her by the third-party company, but that Mrs S still chosen that option. I couldn't agree that her decision to hand the car back to the dealership rather than have it collected had been influenced by thinking an additional fee would be incurred. She had told the agent this option would be simpler for her.

Mrs S said the car was subjected to second inspection when she handed the car back but while I'd seen a copy of the earlier health check report, I hadn't seen anything else in writing from the dealership. The dealership had said that while they did an internal appraisal of the car when it was returned, they hadn't been aware nor instructed to convey any damage to Mrs S. This meant that the dealership wouldn't have raised any damage they found with her at the time not that no damage was found.

I appreciated the handbook had said that damage would be discussed if the car was returned to the dealership, and that this hadn't happened, but I didn't think I could fairly say that the dealership's failure made it unfair for MBFS to raise any charges if damage that wasn't fair wear and tear was then found.

I was satisfied that in accordance with the agreement that MBFS could consider the Vehicle Standard inspection that was conducted by the third-party on the car.

Mrs S had said that the alloys were damaged but said that this was minor although one alloy had been "*borderline*". I'd also seen that damage to the alloys had been noted in the Vehicle Health Inspection Report. The damage had been described as "*general*" wear and tear rather than fair, so I didn't think I could reasonably say that the dealership had assessed that damage in line with the Vehicle Return Standards.

MBFS had provided a number of photos of the damage found to the alloys and although I

appreciated Mrs S strongly refuted that the damage was beyond fair wear and tear, I disagreed. The photos were clear and showed each of the alloys had a number of scuffs and I was satisfied these were greater than 50mm. I thought it was more likely than not that the damage shown in the photos had been present when Mrs S had handed the car back. I thought MBFS had fairly charged for this damage.

However, while I accepted there was damage to the left-hand rear door when the car had

been inspected, I was concerned that this damage had been noted in the vehicle health report which had recorded the condition of the car's bumper as well as the alloys. It appeared inconsistent that this other damage had been noted but nothing relating to the door had been. The damage to the door appeared to be noticeable so I didn't know why it would have been missed unless it hadn't been present.

While I appreciated Mrs S had handed the car back a few days after the vehicle health report had been undertaken, I thought she had been consistent in denying the door damage and I had no reason to not accept what Mrs S had said about this. I'd also seen that the car was with the dealership for some 12 days before it had been appraised by the third-party company. I had seen that MBFS had said that this damage was a matter Mrs S would need to raise with the dealership rather than with it, but the agent, when speaking to Mrs S on the phone, had been very clear that the car wouldn't be her responsibility once the agreement had been terminated and the car returned. I didn't think it was fair to make Mrs S responsible for damage that had more likely than not occurred after she had returned the car to the dealership.

So, I was intending to partially uphold Mrs S's complaint in that I asked MBFS to remove the charge for the damage to the door. However, while I appreciated this would be of disappointment to Mrs S, I thought the charges for the damage to the three alloys was fair as this had been beyond fair wear and tear and I wasn't asking MBFS to remove those.

Mrs S has expressed disappointment with my provisional decision as she says she believes she did follow the hand back process correctly and the dealership had let her down.

Mrs S asked whether MBFS had repaired the alloys as if it didn't, she didn't think it was reasonable for her to have been charged for this damage.

Mrs S also disputed that the photos showed damage to the alloys which was beyond fair wear and tear.

MBFS said there was actual four days between the car being returned to the dealership by Mrs S and its subsequent condition inspection. It says that dirt was found within the dent and this shows that it was unlikely this damage had occurred within the four days but rather was older with the dirt having become ingrained.

MBFS says that although Mrs S had been consistent in denying the dent to the car door, she had also been consistent in stating the alloy damage was only minor. It says that it is more likely than not that the damage to the door had occurred when the car was in Mrs S's possession.

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.

I have reviewed the evidence and my conclusions again in light of the comments from both Mrs S and MBFS, but I haven't changed my view.

For the reasons set out above, I'm still satisfied that the photos clearly show damage beyond fair wear and tear to the three alloys.

Mrs S has also said that if MBFS didn't have the alloys repaired then it is unfair to charge her for that damage, but I would disagree with that. The terms and conditions of the agreement are clear that it is a matter for MBFS whether any damage is repaired or not, so it isn't

obliged to get the vehicle fixed. And the agreement also states that it's the consumer responsibility to return the vehicle in a state that meets the return standards or be liable for the costs of any damage outside of those standards. Damage to a car that's beyond fair wear and tear will impact on its value. The car belongs to MBFS and so I think it's fair for MBFS to charge a customer for damage outside of the vehicle standards as it allows MBFS to be compensated for any loss in value.

Mrs S has raised that the dealership should have carried out the inspection as she had expected or told her that the car would be inspected later. While I agree there appears to have been a misunderstanding about the car's inspection and applying the Vehicle Return Standards by the dealership, as set out above, I don't think I can reasonably say that MBFS was at fault. And as damage was found that was beyond what would be considered fair wear and tear then I think, as per the terms of the agreement, it is Mrs S's responsibility to pay for that damage.

MBFS has said that it believes the damage found to the door occurred while the car was in Mrs S's possession. It has raised the dirt in the paintwork within the dent as showing that dent was of some age. While I'm not an expert on damaged bodywork, I don't think that dirt being present necessarily means that the damage is of some age. The dirt could have, for instance, been transferred from whatever caused the dent. If there were signs of rust or corrosion, then I would accept this damage wasn't new.

I still think that had the dent been there when the dealership had undertaken the health check then it would have been noted. I also think that although Mrs S disagrees the damage to the alloys was more than fair wear and tear, she did acknowledge there was damage present. She has disputed any dent to the back door.

While I appreciate the dealership said it hadn't been told to raise any damage found during its inspection of the car when it was handed back to Mrs S, this dent would have been obvious and as Mrs S was present at that time, she would have been aware of it. So I don't think Mrs S is being misleading when she says there was no dent when the car was handed back.

I also appreciate that the car wasn't at the dealership for 12 days before the condition inspection, but it was there for four, and I still think it's more likely than not that this damage arose when Mrs M left the car at the dealership.

So, for the reasons set out above, I'm still partially upholding Mrs S's complaint.

Putting things right

I'm asking MBFS to remove the charge for the dent to the car's rear door (£260) but that the remaining charges amounting to £330 for the three damaged alloys remain.

My final decision

For the reasons set out above I'm asking Mercedes-Benz Financial Services UK Limited to remove the charge for the dent to the car's rear door (£260) but that the remaining charges amounting to £330 for the three damaged alloys remain.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 28 April 2025.

Jocelyn Griffith

Ombudsman