

The complaint

Mr N complains that Mercedes-Benz Financial Services UK Limited (“Mercedes Benz”) didn’t do the correct affordability checks before it provided him for a loan for a new car.

What happened

In July 2023, Mercedes Benz provided Mr N with a personal contract plan agreement for a new car. The cash price for the vehicle was £58,955.01 and a deposit was taken which Mercedes Benz said was made of a part exchange value of £15,000 and this led to £43,955.01 being financed. Mr N, had he repaid the agreement in line with the credit agreement, would’ve had £5,027.23 of interest, fees and charges to pay. Including the deposit Mr N needed to pay a total of £63,982.24.

This agreement was to be repaid in 36 monthly repayments of £597.84 followed by a final payment, which Mr N only had to pay if he wished to take up the option to purchase the vehicle, of £27,450. A statement of account provided by Mercedes Benz shows all payments up to April 2025 have been paid as expected.

Mercedes Benz issued a final response letter about Mr N’s complaint and it didn’t uphold it because it considered the checks it carried out showed the finance to be affordable. After the complaint was referred to the Financial Ombudsman an investigator then considered the complaint.

In her latest assessment she didn’t uphold the complaint. She explained Mercedes Benz partly used information from a previous agreement Mr N had to check the information provided as part of the application for this one – so Mercedes Benz was entitled to rely on the income amount declared. She also said the credit checks didn’t show anything that should’ve prompted more detailed checks into Mr N’s personal situation.

Mr N didn’t agree with the outcome, and I’ve summarised the responses we’ve received below.

- Mercedes Benz has put down Mr N’s husband salary – Mr N’s bank statements show he is in receipt of two out of work (sickness) benefits – meaning his income was around £9,000 per year.
- The checks Mercedes Benz carried out weren’t proportionate.
- Mr N agreed to take on this agreement before the Tomlin order had been agreed, signed and settled.

These comments didn’t change the investigator’s assessment and so the complaint has been passed to an ombudsman for a decision.

I want to be clear that this decision only addresses whether Mercedes Benz acted fairly and reasonably in accepting Mr N’s application for the finance agreement, I’ve set out above. This decision isn’t considering whether or not any commission was paid by the dealership. That issue would need to be considered separately.

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.

We've explained how we handle complaints about irresponsible and unaffordable lending on our website. And I've used this approach to help me decide Mr N's complaint. Having carefully thought about everything I've been provided with I'm not upholding Mr N's complaint. I'd like to explain why in a little more detail.

Mercedes Benz needed to make sure that it didn't lend irresponsibly. In practice, what this means is that Mercedes Benz needed to carry out proportionate checks to be able to understand whether any lending was sustainable for Mr N before providing it.

Our website sets out what we typically think about when deciding whether a lender's checks were proportionate. Generally, we think it's reasonable for a lender's checks to be less thorough – in terms of how much information it gathers and what it does to verify that information – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower's income was low, the amount lent was high, or the information the lender had – such as a significantly impaired credit history – suggested the lender needed to know more about a prospective borrower's ability to repay.

It's worth saying here that Mr N already had a relationship with Mercedes Benz as he had taken on finance in April 2022 – which cost about £100 less per month. However, this was subject to legal action which ended up with a Tomlin order being agreed. However, the Tomlin order wasn't to do with the affordability of the previous agreement, it was to do with the quality of the vehicle.

I'm not considering the previous agreement – but merely this provides some useful context as to how and why Mr N ended up taking a new car finance agreement in July 2023. The dealership contacted Mr N because it had come into possession of a vehicle which had the specification that it knew Mr N wanted.

But Mr N has questioned why Mercedes Benz agreed to lend to him again when the agreement was agreed before the Tomlin order had been signed. Indeed, it looks like the agreement for this car was signed on 19 July 2023, with the Tomlin order being signed around a week later - so there was a short period where Mr N had two live agreements – although I accept the first vehicle remained in Mr N's possession until the end of August 2023.

I can understand why Mr N has concerns about this. However, I think it is clear that Mr N never intended to keep the first car. Mercedes Benz says the Tomlin Order being agreed after this agreement was due to ongoing negotiations between it and Mr N. But this didn't impact the part exchange or the agreement that Mr N entered into in July 2023. So, I'm satisfied that the conversations around the Tomlin order don't impact the outcome of this complaint.

As part of the application process, Mercedes Benz was told by Mr N that he was retired but still had an annual income of between £40,000 and £45,000 per year. Although Mercedes Benz didn't do anything to verify or cross check what had been said about Mr N's income.

I've also considered, the information was consistent with what Mr N had declared to Mercedes Benz when he had taken the first finance agreement in 2022. Bearing in mind

Mr N hadn't appeared to have had any problems repaying the first agreement, I don't think Mercedes Benz ought to have taken further steps to verify Mr N's income. It was entitled to rely on what it was told, and how Mr N had handled his other account – without checking this further.

It also knew that Mr N was an owner / occupier and the credit check didn't show a mortgage, so it was reasonable for it to believe that Mr N didn't have any fixed rent or mortgage payments each month. Indeed, Mr N has confirmed that he didn't have such costs at the time of his application.

In addition, Mercedes Benz conducted a credit search before granting the agreement and it has provided a copy of the results that it received. The credit search results, wouldn't have, in my view, been overly concerning for Mercedes Benz.

It knew Mr N had total debt of just over £39,500 but it also knew that £37,924 of that debt was connected to the existing HP agreement he had with Mercedes Benz. This existing agreement had not only been repaid without any obvious difficulties, as I've explained I'm satisfied that the expectation was for this new agreement to replace the existing one. So, in theory, Mr N only had around £1,500 of debt which Mercedes Benz needed to take account of.

Mr N had total credit card debt of £916 which Mercedes Benz worked out the minimum payment to cost £46 per month he also had a personal loan costing £89 per month which only had £267 left to pay. This doesn't seem to be an unreasonable calculation. The credit search results didn't show any signs that Mr N was or likely having difficulties because there were no missed payments, defaults or any other type of insolvency events – either on his active accounts or his closed ones.

In these circumstances, I think it may well have been fair and reasonable for Mercedes Benz to have reasonably concluded that Mr N would be in a position to afford his repayments he was due to make. And given I think that Mercedes Benz's checks were proportionate, I'm therefore satisfied that it was reasonable for it to lend in these circumstances, without having to say review the bank statements Mr N has provided to the Financial Ombudsman.

I've therefore not upheld Mr N's complaint.

An outstanding balance still remains due under the agreement and if Mr N is struggling to make the repayments he should get in touch with Mercedes Benz to discuss his options, which may include having to voluntarily terminate the agreement or entered a repayment plan. But I make no finding about what Mercedes Benz should do, merely there are a number of options open to it.

I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I don't think Mercedes Benz lent irresponsibly to Mr N or otherwise treated him unfairly in relation to this matter. I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here.

My final decision

For the reasons I've explained above, I'm not upholding Mr N's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 11 July 2025.

Robert Walker
Ombudsman