

The complaint

Mr W complains about a car supplied to him using a hire purchase agreement taken out with Mercedes-Benz Financial Services UK Limited trading as Mercedes-Benz Finance ("MBFS").

What happened

Mr W referred a complaint to us along with his representative. As the complainant is Mr W, for ease, I have addressed my decision to him only throughout, when referring to what he and his representative have told us.

In February 2023, Mr W acquired a brand-new car using a hire purchase agreement with MBFS. The cash price of the car recorded on the agreement was £39,389.99, the agreement was for 60 months, made up of regular, monthly repayments of £437.75, followed by a final optional payment of £16,025, and a £10 option to purchase fee. The deposit payment recorded on the agreement was £4,604.07. The annual permitted mileage for the car was 6,000 miles.

Mr W said he experienced issues with the car towards the end of August 2023. Mr W said the car had an intermittent satnav display/connection, among other things, such as warning lights appearing on the car's dashboard.

After several visits, the car was eventually repaired, and a new satnav head unit was fitted to the car. Mr W complained to MBFS about the issues he experienced, and they provided their final response, where MBFS upheld Mr W's complaint. Mr W accepted the compensation MBFS awarded him.

In January 2024, Mr W contacted the supplying dealership again due to experiencing further issues with the car. Mr W said he could hear an unfamiliar noise coming from behind the car's dashboard and what he believed to be a transmission issue, as he believed there was a delay in the car changing gears when driving on the motorway.

The car was taken in to be diagnosed for a couple of weeks and Mr W was given hire cars whilst he didn't have his own. Mr W also complained again to MBFS.

In February 2024, MBFS issued another final response to Mr W. In summary, they didn't uphold his complaint. MBFS explained among other things, that a fault couldn't be identified with the car, and so didn't think Mr W could reject it.

Mr W was unhappy with MBFS's response. He said the car was still with the supplying dealership at the time the final response was issued. After some back and forth between Mr W and the supplying dealership, the satnav head unit was removed and refitted. Mr W said this resolved the noise issue.

In June 2024, the car was booked in for a service with a third-party and they identified an oil leak from the gearbox and advised Mr W to take the car back to the supplying dealership. The supplying dealership among other things, replaced the drive shaft oil seal and offered a free service as a gesture of goodwill.

As Mr W was unhappy with MBFS's final response and didn't believe they did a thorough enough investigation, he referred his complaint to our service.

Our investigator partly upheld Mr W's complaint. In summary, he didn't think Mr W could reject the car because he didn't think the car was of unsatisfactory quality at the point of supply. But he did think MBFS needed to do more to recognise the distress and inconvenience caused by this complaint. Our investigator directed MBFS to pay Mr W £200.

MBFS disagreed with the investigator's outcome. They felt that they issued their final response fairly to Mr W as no issue had been identified with the car at the time. MBFS went on to say that they thought it was unfair to be expected to compensate for matters that had occurred after the final response had been issued.

Mr W also disagreed with the investigator's outcome. He explained that his preferred resolution would be a replacement or a rejection of the car. He also thought he should be compensated fairly for the time he didn't have use of his car, as well as for fuel costs.

MBFS later, as a gesture of goodwill, offered to reimburse fuel costs incurred, subject to receipts being provided to evidence of payments made. This was as Mr W believed he had incurred higher fuel costs than normal, due to the hire cars he was given while his car was in for repairs or investigations.

The gesture of goodwill was communicated to Mr W, and he asked for the complaint to be referred to an ombudsman.

While the complaint was waiting for an ombudsman, Mr W said further issues presented itself with the car. Three separate messages appeared on the car's dashboard:

1. "Active lane keeping assist inoperative"
2. "Device detected at diagnostics connection See Owner's Manual"
3. "Speed Limit Assist currently unavailable See Owner's Manual"

Mr W supplied photos and videos of the issues and showed that he also informed the supplying dealership of the new issues.

Our investigator asked MBFS for their comments on the further issues that have presented themselves. MBFS said that they are unable to consider the new information as they have not been able to investigate it. So, they said they would await the ombudsman's decision and issue their findings based on the information that has already been provided and not on the new information.

So, the complaint was passed to me to decide.

I issued a provisional decision on 16 May 2025 where I explained why I intended to uphold Mr W's complaint. In that decision I said:

"I'm aware I have summarised events and comments made by both parties very briefly, in less detail than has been provided, largely in my own words. No discourtesy is intended by this. In addition, if there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is a fair outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as an alternative to the courts."

I have noted that MBFS have issued two final responses to Mr W in relation to this agreement and car; the first being on 8 November 2023; and the latter being on 23 February 2024. As this complaint was referred to our service on 15 July 2024, over six months after the date of the November 2023 final response, I can't consider aspects that were addressed within it. However, I can see that Mr W complained to MBFS again about the quality of the car, as further events occurred after 8 November 2023. And I'm satisfied MBFS responded to those further points raised in February 2024. So, it follows that I'm satisfied I can consider it. In order to consider this further complaint, I will still need to consider the history of faults and repairs carried out to the car, which may have been addressed in the November 2023 final response.

In addition, further events have occurred during the time the complaint was with our service. Our investigator informed MBFS about these and asked for their comments. I'm satisfied I can consider additional events that have occurred as part of this complaint and that MBFS has had reasonable time to provide their comments to them.

Mr W complains about a car supplied to him under a hire purchase agreement. Entering into consumer credit contracts such as this is a regulated activity, so I'm satisfied I can consider Mr W's complaint about MBFS.

When considering what's fair and reasonable, I take into account relevant law and regulations. The Consumer Rights Act 2015 ("CRA") is relevant to this complaint. The CRA explains under a contract to supply goods, the supplier – MBFS here – has a responsibility to make sure goods are of satisfactory quality. Satisfactory quality is what a reasonable person would expect – taking into account any relevant factors. It's important to point out in this case that the CRA specifically explains that the durability of goods can be considered part of whether they are unsatisfactory quality or not.

I would consider relevant factors here, amongst others, to include the car's age, price, mileage and description. So, it's important to note here that the car Mr W acquired was brand-new, cost almost £40,000 and I think a reasonable person would expect it to be in excellent condition, with no faults or issues. And I think they would expect trouble free motoring for a significant period.

What I need to consider is whether the car was of satisfactory quality when it was supplied. And in order to do that, I first need to consider whether the car developed a fault.

Had the car developed a fault?

The car's head unit – I don't think it is in dispute that the car developed a fault. I say this because the head unit for the car was replaced and MBFS upheld Mr W's initial complaint in relation to this.

Mr W, later, said he noticed a noise emanating from behind the car's dashboard. After several attempts, the head unit was removed and replaced, which Mr W says resolved the issue.

So, considering the above, I'm satisfied the car had a fault in relation to its head unit, which has now been resolved.

Transmission issue and oil leak – Mr W said the car wouldn't select a higher gear when driving on the motorway. MBFS initially said they couldn't identify a fault. Later, Mr W sent the car back to the dealership and an oil leak was identified from the gearbox. The drive shaft oil seal was replaced, which Mr W says resolved the issue.

So, considering the above, I'm satisfied the car had a fault in relation to an oil leak and the drive shaft seal, which has now been resolved.

Recent error messages appearing on the car's dashboard – Mr W has supplied photos and videos to show error messages on the car's dashboard. Mr W has also supplied an email received from the supplying dealership which says that a remote diagnostic test had been run on the car and that they could see one of the messages appearing on the car's dashboard was in relation to a malfunctioning camera. They went on to say that it could mean it is a "Windscreen fogging/Software issue with camera/Internal fault with the camera."

While I accept that a specific fault hasn't been identified, I think it is likely from what the supplying dealership has said that there is a fault with the car, considering the error messages Mr W has supplied and the remote diagnostic test has been able to find a fault with a camera. In addition, the supplying dealership also said that an update was released for the control unit, which should resolve one of the other messages that appeared on the car's dashboard.

Was the car of satisfactory quality at the point of supply?

Given the car was brand-new when it was supplied to Mr W, I'm satisfied the car wasn't durable. I wouldn't expect there to be a need to repair items such as the control unit, the drive shaft oil seal and possibly the camera so early in the car's lifetime. And so, I'm satisfied a reasonable person would not consider it to have been of satisfactory quality when it was supplied to Mr W.

Remedies under the CRA

What I now need to consider is whether MBFS needs to do anything to put things right.

I've gone on to think carefully about the remedies available to Mr W under the CRA. I've also thought carefully about the time that has elapsed and the opportunity MBFS has had to resolve any issues with the car.

Section 24(5) of the CRA says:

"a consumer who has ... the right to reject may only exercise [this] and may only do so in one of these situations – (a) after one repair or replacement, the goods do not conform to contract."

This is known as the single chance of repair. And this applies to all issues with the goods, and to all repairs i.e. it's not a single chance of repair for the dealership and a single chance of repair for MBFS – the first attempted repair is the single chance at repair. What's more, if a different fault arises after a previous repair, even if those faults aren't related, the single chance of repair has already happened – it's not a single chance of repair per fault.

In this case, the car was repaired by the supplying dealership due to a faulty head unit. And since those repairs have been carried out, there appears to be another issue with the head unit, which requires it to have a software update to correct error messages appearing on the car's dashboard. And I'm mindful that the newly fitted head unit has already been removed and refitted to resolve an abnormal noise which was emanating from the car's dashboard. So, I'm satisfied MBFS has already had the opportunity to repair the car and I think it failed, or the car has an underlying fault that was never put right. It is unclear if the issue with the head unit and error message that appeared on the car's dashboard has been resolved. But I don't think it would now be fair to allow MBFS the opportunity to repair the car again, as

there isn't a guarantee that the fault could be resolved within a reasonable time, and without significant inconvenience to Mr W.

In addition, the car now appears to have an issue with its camera, alongside driver assist functions not working. And I'm mindful that Mr W has expressed his wish to either replace or reject the car on several occasions, from as early as January 2024. I'm satisfied these new issues have presented themselves after January 2024, and I think it is likely these are faults with the car which make it of unsatisfactory quality due to its durability.

One of the remedies under the CRA would be a replacement of the goods. But I don't think this would be fair to MBFS, as it would be difficult for them to source a like-for-like replacement, with a similar mileage and condition to the car Mr W acquired. So, I think a fairer way to resolve things here is for Mr W to now be allowed to reject the car.

In summary, as I'm satisfied Mr W has had one repair, and the car still has a fault, it follows that I think it is fair and reasonable for Mr W to be allowed to now reject the car.

Loss of use and other costs

Mr W believes he should receive monthly repayments back for the times he didn't have use of his car. On the other hand, MBFS has explained that Mr W was given courtesy cars to keep him mobile while his car was being repaired or investigated.

In this instance, I don't think Mr W should receive a reimbursement for the times he didn't have use of his car. I'm satisfied he was kept mobile and had use of courtesy cars. I'm also mindful that Mr W continues to have use of the car he acquired, considering the mileage that he has accrued in it. So, I don't think it would be fair to MBFS for them to reimburse any monthly repayments here.

Mr W has explained in detail that due to the hire cars he was given, his average fuel costs increased as they weren't as economical as the car he acquired. On the other hand, MBFS say Mr W was given the option on occasions, from a selection of cars of which hire car he wanted. However, as a gesture of goodwill, MBFS offered to reimburse fuel costs incurred, subject to receipts being provided to evidence costs incurred.

I also think this is fair in the circumstances, considering what Mr W has said about the hire vehicles supplied to him.

Distress and inconvenience

Our investigator thought MBFS should pay Mr W £200 for the distress and inconvenience caused by this complaint. MBFS disagreed and didn't think this was fair.

Considering everything here, I'm inclined to increase the level of distress and inconvenience payment MBFS should make. Mr W has explained the times he had to take the car to be investigated and repaired from January 2024 onwards. And on occasions he was told there were no issues with the car, only for it to later transpire that there were. Mr W had to provide photos and videos to prove to MBFS the issues he said the car had. All this, at a stressful time for Mr W as they were welcoming a new child into their family.

I think MBFS should pay Mr W a higher amount than that recommended by our investigator, of an additional £250 for the distress and inconvenience caused. I think £450 in total more fairly reflects the level of distress and inconvenience Mr W has experienced because of the above."

I set out that I intended to uphold this complaint. And I gave both parties the opportunity to send me any further information or comments they wanted me to consider before I issued my final decision.

Responses to the provisional decision

Mr W respond and said he accepted the provisional decision.

MBFS didn't responded to my provisional decision before the deadline I set.

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'm not persuaded to change my opinion from the provisional decision I made.

As MBFS didn't respond before the deadline I set and Mr W accepted the findings I made, I see no reason to depart from what I said in my provisional decision.

In summary, I think MBFS needs to do more in this instance to put things right.

My final decision

For the reasons I've explained, I uphold this complaint and I instruct Mercedes-Benz Financial Services UK Limited trading as Mercedes-Benz Finance to put things right by doing the following:

- End the agreement with nothing further to pay.
- Collect the car (if this has not been done already) at no further cost to Mr W.
- Refund Mr W's deposit payment towards the agreement of £4,604.07. If any of this deposit payment was made up of funds through a dealer contribution, then MBFS doesn't need to refund this amount. *
- Reimburse Mr W the additional fuel costs he says he incurred after 8 November 2023, subject to suitable evidence being provided to MBFS, such as receipts, to show payment being made. *
- Pay Mr W £450 to reflect the distress and inconvenience caused.
- Remove any adverse information from Mr W's credit file in relation to the agreement, if any.

* These amounts should have 8% simple yearly interest added from the time of payment to the time of reimbursement. If MBFS considers that it's required by HM Revenue & Customs to withhold income tax from the interest, it should tell Mr W how much it's taken off. It should also give Mr W a tax deduction certificate if they ask for one, so they can reclaim the tax from HM Revenue and Customs if appropriate.

If MBFS has already given compensation in relation to this specific complaint, the final amount should be less the amount already given.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 30 June 2025.

Ronesh Amin

Ombudsman