

The complaint

Mr H complains that a car supplied to him under a Personal Contract Purchase (PCP) agreement with Mercedes-Benz Financial Services UK Limited (MBFS) was misrepresented to him and of unsatisfactory quality.

What happened

In April 2023, Mr H acquired a used car through a PCP with MBFS. The car was first registered in September 2022 and the finance agreement confirmed it had travelled around 5,747 miles. The cash price of the car was £56,780 and he paid a deposit of £1,000. The amount of credit was for £55,780 and the duration of the agreement was 48 months; with 48 monthly payments of £905.76 and an optional purchase payment of £28,825.

In June 2024, Mr H informed MBFS an engine belt had snapped while driving, and he was having issues with a tyre and the alloy was cracked, which he couldn't claim for on his warranty due to them not being genuine parts.

In October 2024, Mr H tried to sell the car to an independent retailer I'll refer to as B, following a change in his personal circumstances. B didn't proceed with the sale as it found the alloys fitted to the car were non-genuine and unoriginal. Mr H complained to MBFS that the car was misrepresented to him.

In its final response, MBFS said Mr H acquired an approved used car that didn't come directly from the manufacturer, so it was always possible it may have undergone prior modifications. It said the car was equipped with alternative tyres and was advertised with the tyres it was sold with. It therefore didn't uphold Mr H's complaint, as it didn't find there to be any evidence that Mr H wasn't aware of the alternative tyres before entering into the agreement.

Our Investigator reviewed matters and initially upheld the complaint. They were satisfied the car was fitted with aftermarket, non-genuine wheels and tyres, that didn't match the description within the sales advertisement. They didn't think it was reasonable to have expected Mr H to be aware the wheels and tyres were non-genuine and would've expected this to have been disclosed to him at point of supply. Based on the information available at that time, the Investigator was satisfied the car was mis-sold and said MBFS should replace the wheels and pay Mr H £150.

Mr H didn't agree this was a fair way to put things right, as he had lost out on a year of depreciation and had adverse information on his credit file after being advised not to make payments towards the agreement. He wanted to return the car at no detriment to him.

MBFS also disagreed with the Investigator's opinion, and provided new information that it considered evidenced Mr H was made aware the car was fitted with aftermarket wheels and tyres at point of sale.

Our Investigator considered the new information, including a video sent to Mr H at point of sale, and was satisfied he was informed the car was fitted with aftermarket wheels prior to supply – so no longer thought MBFS needed to do anything to put things right.

Mr H didn't accept the Investigator's view. In summary, he said the alloys and tyres suffered premature damage due to being substandard, the wheels were presented as aftermarket but genuine parts and if he had been informed they weren't genuine he wouldn't have purchased the car. He also said his complaint has been ongoing for a significant period of time since he tried to get out of the contract by selling the car, and he was advised not to make payments towards his agreement until the complaint was resolved – which has had an adverse impact on his credit file.

As no agreement was reached, the matter was passed to me to decide. I wrote to Mr H and MBFS setting out my intention to not uphold the complaint based on the available evidence. In summary, I said I was satisfied Mr H was made aware the car was fitted with aftermarket wheels before he entered into the agreement, and there was insufficient evidence to show the car was of unsatisfactory quality when it was supplied to him. Additionally, I explained I wasn't persuaded he was told to stop making payments towards his agreement, or that MBFS should remove the adverse information from his credit file. I informed Mr H that MBFS had offered to sell the car at auction, to possibly reduce the overall amount he is left liable for.

Mr H didn't agree. He maintains he was told to stop making payments, so the adverse information should be removed from his credit file. He also said the dealership offered to replace the wheels at cost price, which he considers to be acceptance they were of unsatisfactory quality.

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 think it's important to firstly explain I've read and taken into account all of the information provided by both parties, in reaching my decision. If I've not reflected something that's been said it's not because I didn't see it, it's because I didn't deem it relevant to the crux of the complaint. This isn't intended as a discourtesy to either party, but merely to reflect my informal role in deciding what a reasonable outcome is. Where evidence has been incomplete or contradictory, I've reached my view on the balance of probabilities – what I think is most likely to have happened given the available evidence and wider circumstances.

In considering this complaint I've taken into account 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 H was supplied with a car under a PCP agreement. This is a regulated consumer credit agreement which means we are able to investigate complaints about it.

Was the car misrepresented?

Under section 56 of the Consumer Credit Act 1974, the finance provider can be held responsible for antecedent negotiations (meaning what was said or done) by the broker and/or supplier (the dealership) before the consumer enters into a finance agreement. So I've taken this relevant law into account when looking into this complaint.

For me to conclude there has been a misrepresentation in Mr H's case, I must first be satisfied that:

1. A false statement of fact has been made; and
2. That false statement induced Mr H to enter into the agreement to acquire the car.

The Consumer Rights Act 2015 also says goods should be sold as described.

With the above in mind, I've reviewed the sales advert and note it describes the wheels as "21-inch ... 5 twin spoke design alloy wheels painted in black with high sheen finish".

Within its email to Mr H, B confirmed it had inspected the car and found all alloys fitted to be non-genuine and unoriginal, of which the car should've been fitted with since supply. It said:

"The vehicle appears to have 22" Alloys which state an unknown brand on the metal and also to the tyre..."

According to the chassis specification search, this particular model should be fitted with – 21 in Alloy Wheels – Five Tri Spoke – Black Painted and Bright Machined."

It's not disputed here that the car was fitted with aftermarket wheels, or that the description on the sales advert doesn't reflect the wheels fitted to the car at the point of supply. MBFS accepts this was incorrect information.

However, in addition to the sales advert, the dealership provided Mr H with video footage of the car prior to the sale. Within this video, the dealership confirms twice that aftermarket wheels are fitted to the car. So, while the advert may have contained a false statement of fact, I'm satisfied this was corrected by the dealership – who provided Mr H with true information about the wheels and tyres fitted to the car.

As I don't consider the first misrepresentation criteria has been met, it's not necessary to consider the second criteria. However, for completeness it may be helpful to explain that even if I did consider the dealership had made a false statement of fact here, I wouldn't have found this to have induced Mr H to enter into the agreement. I'll explain why.

Firstly, Mr H was provided with a video of the car, with the wheels and tyres it was sold with. He was given an opportunity to raise any concerns he may have had about the car before proceeding. And given the dealership referred to the wheels being aftermarket on more than one occasion within the video, it's my view that it's reasonable to have expected him to question this if it was an important factor in his decision making. If he was unsure what aftermarket meant, he could've asked the dealership at the time.

Additionally, Mr H was in possession of the car for around 18 months before he raised any concerns about the car being mis-sold. And this only followed one attempt to sell the car to B, which didn't proceed due to its internal policies. There's no way Mr H, or the dealership, would've been aware B wouldn't purchase the car for this reason at the time the car was supplied to Mr H - so I don't consider this would've prevented him from entering the agreement at the time.

Overall, while I accept the sales advert included an incorrect description of the wheels, I'm satisfied the wheels fitted to the car were visible within the information provided to Mr H before the sale. The video provided made him aware they were aftermarket wheels and he had the opportunity to question this with the dealership prior to proceeding with the sale. Mr H didn't raise any issues with the wheels until he'd been in possession of the car for around 18 months, following a change in circumstances that required him to sell it. And I

don't consider one independent retailer's policy to not purchase cars with non-genuine wheels means the car was mis-sold for this reason, as this wouldn't have been known by Mr H, the dealership or MBFS at the time the agreement was entered into.

So, based on the above, I don't find the car was misrepresented.

Was the car of satisfactory quality?

The Consumer Rights Act 2015 (CRA) covers agreements such as the one Mr H 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. I think in this case those relevant circumstances include, but are not limited to, the age and mileage of the car and the cash price. The CRA says the quality of the goods includes their general state and condition, as well as other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability.

Mr H acquired a used car that was around seven months old and had covered around 5,747 miles. Its cash price was £56,780. So, what would be considered satisfactory quality would be different to if he had acquired the same car brand new. As this was a used car, this would be reflected in the price he paid for it. And it's reasonable to expect parts may already have suffered wear and tear, and wouldn't be free from minor cosmetic defects, when compared to a brand-new car. MBFS wouldn't be responsible for anything that wouldn't make the car of an unsatisfactory quality or was due to normal wear and tear while in Mr H's possession.

The CRA says any faults reported within the first six months of an agreement are assumed to be present or developing at the point of supply – unless the finance provider provides evidence to suggest otherwise. Outside of the first six months, that assumption doesn't apply. In Mr H's case, I haven't seen any evidence of a tyre or wheel fault being reported in the first six months.

MBFS has shown Mr H contacted it about a snapped engine belt, tyre damage and cracked alloy in June 2024. This was 14-months following supply, so I don't consider it unreasonable that the responsibility lies with Mr H to obtain evidence that shows the car was faulty at point of supply – and this made the car of unsatisfactory quality.

While it's accepted aftermarket wheels were fitted at point of supply, this itself isn't a fault. But another element of satisfactory quality is durability, and Mr H said the quality of the wheels were substandard, which led to premature damage. Mr H has provided photos that show the car being recovered and significant tyre damage. But I haven't seen any evidence, such as a report from an industry expert, that confirms alloy damage or the cause of the snapped fan belt or tyre damage.

MBFS has shown the V-belt tensioner was repaired under warranty in May 2024, following a breakdown. The car's mileage was recorded as 25,972 at this point. So, Mr H had travelled around 20,225 miles in the car in just over a year, before this fault occurred.

Mr H says the fan belt snapped due to the wrong size wheels being fitted to the car – but I haven't been provided with any evidence of this. There are various reasons why a fan belt may snap and without evidence to confirm the cause here, I can't reasonably find this was due to the car being insufficiently durable, and therefore of unsatisfactory quality.

Understandably, tyres are wear and tear items on a car and prone to external damage for

various reasons including road conditions, accidental damage or driving style. I consider the mileage Mr H covered within the first 13 months of the agreement to be substantial, during which significant wear is inevitable and damage caused by external factors was possible. I don't consider this supports premature failure of the tyres due to substandard wheels. Additionally, if the wheels and tyres did fail sooner, I'd expect this to have been reported to MBFS at the time - so it had the opportunity to investigate the cause of this. Mr H says he did this, but I haven't seen any evidence of this and he hasn't confirmed when this was.

Overall, I find there is insufficient evidence to show the wheel damage Mr H reported, or that the tyres or fan belt failed prematurely due to substandard wheels being fitted to the car prior to supply. Based on what I have seen, it seems more likely than not the tyre damage was the result of wear and tear, or external factors, while the car was in Mr H's possession. And considering the amount of mileage Mr H covered over a 13-month period, I'm persuaded, on balance, the wheels and tyres were sufficiently durable. So, I don't find the car was unsatisfactory quality at point of supply.

Credit file

I haven't seen any evidence Mr H was advised by MBFS not to make payments towards his agreement – and it would be unusual for such advice to be given. Regardless of an ongoing complaint, Mr H is required to maintain his contractual payments under the agreement. MBFS has also noted he has continued to use the car throughout the complaints process – so regardless of the outcome of his above complaints, I would consider it reasonable that he pay for the use he's had.

From what I have seen, Mr H raised a complaint with MBFS regarding the late payments on his credit file, which it responded to in September 2024. This confirmed no late markers had been reported at that point. It also set out MBFS's obligation to report accurate information to credit reference agencies (CRAs) and explained if he doesn't make his payments this will be recorded on his credit file.

Mr H contacted MBFS again in December 2024, explaining he'd raised a complaint about his car in October 2024. He said he was advised not to make any payments towards his agreement as the car was due to be sold – but the sale didn't go ahead due to the car having non-genuine wheels. MBFS responded to Mr H explaining it had no part to play in the sale of the car, and while the agreement is live he needs to maintain the payments on his account. For this reason, it said it wouldn't be able to remove the late markers reported and asked him to contact its collections team to arrange payment of the arrears.

Based on the above, I don't have sufficient evidence MBFS advised Mr H to stop making payments. And even if he was, I'm satisfied MBFS informed him he was required to maintain his payments and the implications of not doing so – including adverse information being reported on his credit file – before any late markers were reported. I'd also note Mr H's own testimony that this advice was given based on the understanding his car was about to be sold – which didn't happen. Mr H would've been aware the sale didn't go ahead, and his agreement remained active, therefore the payments remained payable by him.

For these reasons, I'm satisfied MBFS has fairly reported missed payments and won't be asking it to amend Mr H's credit file, as it is required to report true and accurate information about his payment history.

MBFS's offer

While MBFS maintains it treated Mr H fairly, it has noted that the arrears on his agreement is significant. Additionally, the distance he's travelled in the car significantly exceeds the 8,000

mile annual allowance set out within his agreement. This means, if the agreement proceeds normally, Mr H will be liable for significant excess mileage and damage charges upon return of the car, in addition to the arrears.

As Mr H has notified MBFS that he is in financial difficulty, it has proposed that it take the car back and sell it at auction. While the sale price can't be confirmed or guaranteed at this stage, MBFS believes this option could leave a considerably lower shortfall than what Mr H is currently facing.

Mr H said he'd be willing to discuss this further if the late payment markers are removed and he's given a settlement figure. He also said he'd be happy to try and sell the car privately to mitigate the losses.

As I've explained above, I won't be directing MBFS to remove the late payment markers from Mr H's credit file. And as I don't think MBFS has done anything wrong, I won't be directing MBFS to do anything further. Mr H should therefore contact MBFS directly to discuss his options and next steps in relation to the sale of the car and settlement of the agreement. As Mr H has mentioned financial difficulty, I would remind MBFS to treat him with forbearance and due consideration.

My final decision

For the reasons set out above, my final decision is that I do not uphold Mr H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 21 April 2026.

Nicola Bastin
Ombudsman