

The complaint

Mr C complains about the quality of a new car that was supplied through a hire purchase agreement with Mercedes-Benz Financial Services UK Limited trading as Mercedes Benz Financial Services (MBFS).

What happened

In October 2022 Mr C acquired a new car through a hire purchase agreement with MBFS. The cash price of the car was £62,131. The total amount financed on the agreement was £62,131 payable over 48 monthly repayments of £991, with a final optional purchase payment of £30,975.

In November 2022 Mr C said he noticed there were handling issues when turning corners. Mr C said he took the car to a manufacturer garage in January 2023 who told him it was a known issue and was advised to fit new tyres. Mr C said he sought a second opinion where he was advised the problem couldn't be fixed.

In March 2023 Mr C complained to MBFS and requested a rejection of the car. MBFS issued their final response and didn't uphold Mr C's complaint. MBFS said the problem was a characteristic of the car which didn't impact the safety of it, so they couldn't support a rejection. However, they gave Mr C the option to have an independent inspection carried out to investigate the issue further. Mr C confirmed to our investigator that he didn't accept it.

Unhappy with MBFS' decision Mr C brought his complaint to our service for investigation. Mr C told our investigator that he felt the car was unsafe to drive, that he was told there the issue has been fixed for newer models, and that under the Consumer Rights Act 2015 he's entitled to reject the car.

Having reviewed all the information on file our investigator recommended that Mr C's complaint should not be upheld. Our investigator concluded that although there was a confirmed characteristic of the car, he didn't consider it was a fault or safety issue as there was no evidence to support it.

Mr C didn't accept our investigators view. He said he believed the car wasn't of a satisfactory standard from the point of supply, and so he asked that his complaint be referred to an ombudsman for a final decision.

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.

In considering what is fair and reasonable, I've thought about all the evidence and information provided afresh and the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and (where appropriate) what I consider to have been good industry practice at the relevant time.

The agreement in this case is a regulated hire purchase agreement. As such, this service is able to consider complaints relating to it. MBFS is also the supplier of the goods under this agreement and is responsible for a complaint about their quality.

The Consumer Rights Act 2015 (CRA) is relevant in this case. It says that under a contract to supply goods, there is an implied term that *"the quality of the goods is satisfactory, fit for purpose and as described"*. To be considered as satisfactory, the CRA says the goods need to meet the standard that a reasonable person would consider satisfactory, considering any description of the goods, the price and all the other relevant circumstances.

So, it seems likely that in a case involving a car, the other relevant circumstances a court would consider might include things like the age and mileage at the time of sale and the vehicle's history.

Here, the car was acquired new, with a cash price of around £62,000. So, I think it's fair to say that a reasonable person would expect the level of quality to be higher than a second hand, more road-worn car and that it could be used – free from defects – for a considerable period of time

From the information provided I'm persuaded that there is a characteristic, which impacts the handling of Mr C's car when turning of full lock. This is apparent from What Mr C has told us, from what has been confirmed by MBFS in their final response and on the invoice from the manufacturer garage, that Mr C provided to us.

However, just because there is a confirmed characteristic which causes Mr C some concern, doesn't mean the car is of unsatisfactory quality. I've considered whether any discomfort for Mr C in relation to the characteristic, goes beyond what a reasonable person would consider to be satisfactory. I've also considered whether the characteristic renders the car unsafe.

My findings are based on the particular circumstances of this complaint and specific situation concerning Mr C's car.

In his complaint form, Mr C said that he was experiencing handling issues with the car. He said it occurred whilst turning corners and would make the car uncomfortable and unsafe to drive. The manufacturer garage sales invoice dated 1 March 2023, advised that the tyres and steering knuckle was causing the issue that Mr C was experiencing. It went on to advise it couldn't be fully rectified as the knuckle couldn't be replaced on the model of car that Mr C had.

In their final response MBFS have said the issue being experienced by Mr C was a known characteristic on the type of car Mr C owned. They said:

"I can confirm the skipping sensation that you are experiencing is not uncommon with our ... vehicles. Please be assured that this is not a safety risk and is a normal characteristic. This sometimes occurs in colder weather and when manoeuvring at low speeds"

Both parties are in agreement that a characteristic exists, however MBFS said in their final response that the safety of the car is not compromised in any way. I acknowledge what they've said here, however I don't think that was following a detailed and specific inspection or investigation into Mr C's vehicle. MBFS were providing commentary on the known characteristic with vehicles of the same make and model to Mr C's. Although I think its likely Mr C has been experiencing the same known issue, I've had to consider that Mr C's may have other factors that is impacting his driving experience. For example, that a further issue exists which makes Mr C's driving experience beyond reasonable.

Mr C said he'd brought his car into a manufacture garage on two occasions for them to look into the issue. And although Mr C has provided an invoice which states the problem couldn't be rectified, it doesn't say the quality is unsatisfactory or that driving the vehicle poses a safety risk.

I've not seen any further evidence that comments on the severity of the issue, for example in the form of a specialist investigation report, or a video of the juddering demonstrating the scale of the issue.

In their final response MBFS offered Mr C the option of having an independent inspection carried out. However, Mr C declined this because he felt he'd already given MBFS sufficient opportunity to fix the issue. I acknowledge Mr C's strength of feeling about this, but without any specific evidence to show the severity of the issue that's impacting Mr C's driving experience, there's nothing which evidences whether the vehicle has some other issue or whether the characteristic is disproportionately impacting Mr C's safety and comfort. So, all things considered and from the information provided, I'm persuaded that the car was of satisfactory quality when it was supplied to Mr C.

I acknowledge the supporting information Mr C brought to our attention in the form of a previous decision that was reached, on what appears to be a similar case to Mr C's. Each case brought to our service is considered on their own merits, and it wouldn't be appropriate for me to comment on the specific details of another case. However, it's likely the case in question isn't identical to that of Mr C's in relation to the specific issues raised, or the type of evidence that was provided.

As I've concluded that the car was of satisfactory quality at the point it was supplied, I don't require MBFS to take any action in respect of this complaint.

My final decision

Having thought about everything above along with what is fair and reasonable in the circumstances I don't uphold Mr C's complaint about Mercedes-Benz Financial Services UK Limited trading as Mercedes Benz Financial Services.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 3 September 2023.

Benjamin John
Ombudsman