

The complaint

Ms H complains about a claim she made to Sainsbury's Bank Plc ('SB') in respect of a purchase she made on her credit card.

What happened

The background facts of this complaint are well known to the parties – so I won't repeat them in detail here. Instead I will summarise these and focus on giving reasons for my decision.

Ms H paid for installation of bedroom wardrobes from a supplier ('the supplier') but she was unhappy with the product received and complained to it.

Because Ms H was not satisfied with the response from the supplier she made a claim to SB for either a £4,000 price reduction or a full refund of the balance.

SB considered the matter under Section 75 of the Consumer Credit Act 1974 ('Section 75') but didn't agree to uphold the claim because it said Ms H had already accepted a full and final settlement from the supplier (to remove £739 from the final balance owed for the wardrobes).

The matter came to this service. Our investigator didn't uphold the complaint about the way SB handled the claim.

Ms H has asked for the matter to be considered by an ombudsman for a final decision. In summary, she says:

- SB should have investigated the claim for misrepresentation;
- she was concerned about being taken to court for non-payment so agreed to go with the supplier's offer of waiving the final balance; and
- at no point did she say she would accept the offer but that she would 'go with the option'.

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 considered the evidence submitted by the parties but I will not be commenting on all of it – only the matters I consider central to the complaint. This is not intended as a discourtesy but reflects my role resolving disputes informally.

It is worth noting here that SB is not the supplier of the wardrobe installation here. So I am only considering its role as a provider of financial services. In doing so I note that the ways SB might have fairly helped Ms H get her money back here would be through Section 75 or the chargeback scheme. So I have focused on these.

Section 75

Section 75 can mean Ms H can hold SB liable for a 'like claim' for breach of contract or misrepresentation by a supplier in respect of goods or services purchased using her SB credit card.

SB effectively concluded that Ms H does not have a claim against the supplier because she settled it. Therefore, she can't have a 'like claim' against SB.

I don't think in coming to this conclusion SB has acted unreasonably here. I have looked at the correspondence between Ms H and the supplier and I can see in an email dated 14 April 2022 that it puts several options forward to resolve Mrs H's concerns about the installation including the offer of alterations or removing the outstanding balance of £739 (effectively a price reduction). Importantly it is clear that these are put forward by the supplier '*in full and final settlement of all current matters between us*'.

So prima facie – I think the basis of the supplier's offer is clear and acceptance of it is to effectively put an end to Ms H's claim against the supplier in respect of her dissatisfaction with the installation.

The question then is whether Ms H accepted the offer. I think it is clear she did in her follow up correspondence (dated 28 April 2022) regardless of the fact she used the wording of 'go with the option' (of the company removing the outstanding balance of £739). Ms H then asks for confirmation that she owes the supplier nothing further – which reinforces a clear intention to accept the offer to waive the balance. The supplier then acknowledges her acceptance and repeats this is in full and final settlement. In summary, whether she used the word 'accept' I think it is clear and fair to conclude that Ms H's response is effectively acceptance of the price reduction settlement option as proposed by the supplier.

Ms H indicates that she felt pressured into agreeing and was fearful of being taken to court for arrears. However, I don't see anything from the supplier which could reasonably be considered undue pressure. Furthermore, had she rejected the offer it was ultimately Ms H's decision as to whether she wished to continue to withhold payment going forward. Continuing to pay what she owed (under protest or otherwise) would not likely have prevented her from taking action via a court or Section 75. Overall, I don't consider there to be reasonable grounds to say that SB should have considered Mrs H's acceptance of the full and final settlement as invalid.

Ms H has also indicated that the claim she made to SB was not the same as the claim she settled with the supplier. She points to her claim being about misrepresentation rather than the quality of the installation. However, looking at the correspondence from the supplier and Ms H leading up to the settlement I think it is very clear that the claim Ms H is making against the supplier also involves the issues around the communication regarding the designs and allegations of misrepresentation. I note that Ms H mentions misrepresentation in her email where she agrees to settle the claim. So overall, I don't think it would be reasonable for SB to have considered allegations of misrepresentation here as a separate matter for investigation.

All things considered, because it appears that Ms H had already resolved her claim with the supplier in full and final settlement I don't think SB's response in declining to uphold the Section 75 claim against it was unfair.

Chargeback

For completeness I have considered if SB could have recovered Ms H's money via chargeback. Chargeback is not a legal right like Section 75 but it can be good practice to attempt one where there is a reasonable prospect of success.

It appears that SB did not raise a chargeback here – but in the circumstances I don't consider that unreasonable. From what I can see any chargeback claim would have likely been out of time as for something like a service not as described this has to be raised 120 days from when the service was received. The installation was completed in late 2021 and Ms H contacted SB in August 2022 which is clearly out of time. Even if I were mistaken on this I don't consider the chargeback had a reasonable prospect of success in any event for similar reasons to those I have outlined above in respect of the Section 75 claim.

In summary, while I am sorry to hear Ms H is unhappy with the product she purchased I don't consider SB acted unfairly in its handling of Ms H's claim. I know Ms H will likely be disappointed by my decision – however, my role here is to resolve disputes informally in respect of the actions of SB. My decision does not prevent Ms H from considering other possible avenues against the supplier directly if she maintains she does have a valid claim against it in court – however, she might wish to seek her own independent legal advice before taking further action.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms H to accept or reject my decision before 30 October 2023.

Mark Lancod
Ombudsman