

## The complaint

Mr H says that a holiday product was mis-sold to him. Because he used his credit card, issued by John Lewis Financial Services Limited ("JLFS") to make payment, he says that he has a claim against it, in the same way as against the seller.

## What happened

Mr H has explained that he and his wife were timeshare owners and that they were unhappy with the product they had bought. They were contacted by a business, C, which said it could help them recover the money they had lost as a result of buying the timeshare product. In order to register their claim, however, they would need to travel to Tenerife.

Mr and Mrs H travelled to Tenerife in January 2019. While there, they signed an "Accommodation Contract" with Alternative Travel SL. The contract recorded that they paid £3,750 (€4,200.75) for holiday accommodation. It also said:

*"We understand .the-accommodation in the Canaries is a onetime only purchase and Alternative Travel have paid for this accommodation in full today including taxes to our subsidiary Travel Agent suppliers and therefore this purchase cannot be cancelled.*

*"We understand the second week of accommodation is a onetime only purchase and is reserved today including taxes, and Alternative Travel SL have paid this accommodation in full to our subsidiary Travel Agent Suppliers, and therefore this purchase cannot be cancelled."*

In May 2022 Mr H contacted JLFS. He said he had a claim under section 75 of the Consumer Credit Act 1974. He said he had bought a membership service from Alternative Travel. He and Mrs H had been shown a website featuring a wide range of holidays. They would only need to pay an initial fee, which they would get back. He had not however received the service he had paid for.

Mr H explained too how he and Mrs H had come to be in Tenerife – that is, they were seeking to recover money they had paid for their timeshare.

Mr H says that when he asked about the accommodation referred to in the Accommodation Contract, he was told that it did not apply to him and Mrs H; that payment was for the week they had spent in Tenerife, and it would be returned.

Mr H says too that he was told that he would receive £11,250, which he would then pay back as part of the tax arrangements. He asked if those arrangements were legal, and he was assured they were. He was later contacted about a loan for £11,250, which he did not in the event take out.

JLFS did not accept Mr H's claim. It said that he had not shown that he had a claim for breach of contract or misrepresentation against Alternative Travel; it followed that Mr H did not have a valid claim under section 75.

Mr H referred the matter to this service, where one of our investigators considered it. The investigator did not recommend that it be upheld. He was not persuaded there had been a breach of contract or a misrepresentation. Mr H asked that an ombudsman review the case.

I did that and issued a provisional decision, in which I said:

*One effect of section 75(1) of the Consumer Credit Act is that, subject to certain conditions, an individual who pays for goods or services with a credit card and who has a claim for breach of contract or misrepresentation against the supplier has a "like claim" against the credit card provider. I am satisfied that the necessary conditions were met in this case, so I've considered what Mr H has said about his involvement with Alternative Travel and the contract with that company.*

*On the face of it, the contract was for the provision of holiday accommodation. No cancellation was permitted. Mr H says however that he was told that the accommodation elements of the contract did not apply to him. There is, however, no mention of any other service which Alternative Travel agreed to supply. Specifically, there is nothing in the contract about making a claim against a timeshare company, or any reference to any kind of subscription or discount service.*

*Mr H has not provided any information about the accommodation he paid for in January 2019. He has not said whether he tried to book it or use it or, if he did, what the outcome was. He has said however that he was told at the time that he was not paying for accommodation – contrary to what the contract said.*

*It appears therefore that Mr H signed a contract which bears no relation at all to what he says he was told he was paying for. But there is no documentation relevant to what he says he thought he was buying – a membership or discount scheme, or a timeshare claims service. Nor is there any reference to any price for those services or to payment. And the timeshare claims service was, according to Mr H, offered by C, not by Alternative Travel.*

*I think it quite likely that Mr H has been the victim of sharp practice in this case. I do not believe however that he has shown that he has a claim for breach of contract or misrepresentation against Alternative Travel. It follows that the response of JLFS to his section 75 claim was reasonable in the circumstances.*

I said that I was not minded to uphold the complaint.

Neither Mr H nor JLFS had anything to add in response to my provisional 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.

As I have received no further evidence or arguments in response to my provisional decision, I see no reason to reach any different conclusions. In saying that, however, I have reviewed the case in full before reaching my final decision.

### **My final decision**

For these reasons, my final decision is that I do not uphold Mr H's complaint and do not require John Lewis Financial Services Limited to take any further steps to resolve it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or

reject my decision before 15 November 2023.

Mike Ingram  
**Ombudsman**