

## **The complaint**

Mrs M complains about how John Lewis Financial Services Limited (“JLFS”) handled a claim she made in relation to a transaction on her credit card.

## **What happened**

Mrs M purchased carpet, from a company I’ll refer to as “S”, through her JLFS credit card in September 2022. The cost of the carpet was £1,206.81. S also agreed to act as an agent for Mrs M and arrange to source an independent fitter to install the carpet at Mrs M’s home.

In October 2022, Mrs M complained to S and said the fitters had attempted to fit her carpet on three occasions, however the installation still wasn’t complete. She said various excuses had been made by the fitter and she thought there was a problem with the fitter. Mrs M said she wanted S to refund the order in full. Mrs M also complained to JLFS.

In May 2023, JLFS issued its response to Mrs M’s complaint. It said it didn’t have any chargeback rights and it wasn’t liable under section 75 of the Consumer Credit Act 1974 (“s75”), as Mrs M’s claim didn’t meet the requirements of a valid claim under s75. It said the debtor, creditor, supplier link had been broken.

Unhappy with this, Mrs M referred her complaint to this service. She reiterated her complaint and said the carpets were poorly fitted and were a health and safety hazard. She said S had paid £300 to reflect that the fitters attended on three occasions and she was required to travel over 100 miles because of their incompetence. She said there was a valid debtor, creditor, supplier link, as she paid an agreement fee to S to act as an agent to source the fitter. She said just because she paid the fitter directly for the installation, this didn’t void S’s responsibility to ensure the carpet was fitted correctly.

Our investigator looked into the complaint but didn’t think JLFS had acted unfairly. He said JLFS couldn’t raise a chargeback as the carpet had been supplied and installed. He also said Mrs M’s claim for the installation of the carpet didn’t meet the requirements of a valid claim under s75. He said this was because Mrs M paid the fitter directly for the installation and so, there was no valid debtor, creditor, supplier link.

Mrs M disagreed. She said she thought there was a valid debtor, creditor, supplier link. She said JLFS should be disputing the issue with S, as S guaranteed the fitter’s work and because this work had fallen short, this contract had been breached. She said this guarantee formed a direct link between her, S and the fitters. She said the guarantee should be covered under s75.

As Mrs M remains in disagreement, the complaint has been passed to me to decide.

## **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’ve read and considered the whole file and acknowledge that Mrs M has raised a number of different complaint points. I’ve concentrated on what I think is relevant. If I don’t comment on any specific point it’s not because I’ve failed to take it on board and think about it – but

because I don't think I need to comment on it in order to reach what I think is the right outcome. The rules of this service allow me to do this.

To make it clear, this complaint is about JLFSL, as Mrs M's credit card account provider. It's not about S.

Generally, where a consumer raises a dispute about a transaction made on a credit card, the card provider can consider the dispute in two ways – s75 and chargeback.

### **S75**

I've considered whether I think it was fair and reasonable for JLFSL to decide that Mrs M's claim for the installation under s75 was invalid.

Under s75, JLFSL are jointly liable for any breaches of contract or misrepresentations made by the supplier of goods or services – which is S in this case.

To be clear, Mrs M entered into a contract with S to supply her with carpet and also to introduce her to an independent fitter. I'll consider these separately.

#### ***The supply of the carpet***

In order for there to be a valid claim under s75, there needed to be a debtor-creditor-supplier ('DCS') agreement in place. Mrs M made the purchase on her credit card which was supplied by JLFSL. I can see the invoice from S is in Mrs M's name. JLFSL have shown the credit card transaction was in Mrs M's name to S. So, I'm satisfied a valid DCS agreement exists here.

I've then considered the financial limits that apply to a valid s75 claim. Mrs M needed to have purchased a single item with a cash price of over £100, but no more than £30,000. I can see from the invoice that the amount is within the financial limits. So, it follows that I'm satisfied the financial limits have been met for a valid claim concerning the supply of the carpet.

Overall, I'm satisfied Mrs M has a like claim against JLFSL, as she does against S. And that S were acting as an agent of JLFSL.

In this case, both Mrs M and JLFSL agree that the carpet was supplied by S to Mrs M. There hasn't been any suggestion that the carpet supplied by S was faulty or not as described. And so, I'm satisfied there hasn't been a breach of contract or a misrepresentation in respect of the supply of the carpet. In light of this, I don't find that JLFSL has acted incorrectly here.

#### ***The installation of the carpet***

Mrs M's contract with S includes a fee of £32.80 within the overall price for "*fitting service administration*". The cost of this fee was paid using Mrs M's credit card issued by JLFSL.

For the same reasons I've mentioned for the supply of the carpet, I think there is a valid DCS agreement in respect of the "*fitting service administration*".

I also think the financial limits that apply to a valid claim under s75 are satisfied. This is because I consider the £32.80 fee to be part of the overall cost and so, the whole contract is a single item. I say this because Mrs M couldn't have made a payment for the "*fitting service administration*", without the purchase of the carpet from S. It's not something she could have paid a fee for and purchased separately. I can see from the invoice that the overall amount is within the financial limits. So, it follows that I'm satisfied the financial limits have been met for a valid claim concerning the "*fitting service administration*".

So again, I'm satisfied that Mrs M has a like claim against JLFSL for the "*fitting service administration*", as she does against S. And that S were acting as an agent of JLFSL.

However, I need to consider what “fitting service administration” includes. So I’ve considered the invoice supplied to Mrs M by S. The invoice says:

*“You appoint [name] as your agent to arrange for the fitting of your product. We will take reasonable care to identify a fitter we believe is suitable to fit your product you have purchased from us and liaise with you and the fitter to arrange a suitable date... The contract for fitting will be under a separate arrangement between you and the fitter. The fitter is responsible for the standard and quality of, and any liability arising from installation. Payment for this service is paid directly to the fitter on the day your order is fitted.”*

The terms and conditions say:

*“If you wish us to arrange for your floorcovering to be fitted, you appoint us as your agent to arrange the fitting of your product. There is a fee payable for us to act as your agent. Alternatively, you may make any other arrangements for fitting the product yourself. We will take reasonable care to identify a fitter we believe is suitable to fit the products you have purchased from us and liaise with you and the fitter to arrange a suitable date. You authorise us to enter into an oral contract for fitting of your product(s)...with independent self-employed fitters in your name and on your behalf. The contract for fitting will be under a separate agreement between you and the fitter. You must pay the fitter for the fitting services on completion of the fitting...”*

*We retain full responsibility for the products and services we supply and the fitter is responsible for the standard and quality of, and any liability arising from, delivery and/or installation. Payment for the fitting is made directly to the fitter on the day your order is fitted.”*

S’s website says:

*“We will arrange an independent professional fitter to take care of everything so you can relax...[name] fitting arrangement service uses an approved assessment process, meaning the independent professional fitters must pass a rigorous assessment and demonstrate suitable skill and depth of experience. We also ensure all checks have been carried out before they work for our customers.”*

The arrangement Mrs M has entered into means that she paid a fee for S to source an independent professional fitter on her behalf. As S sourced an independent professional fitter and introduced the fitter to Mrs M, it had no further liability. Mrs M entered into a separate contract with the fitter to install the carpet. S’s liability stopped at the point the fitter was sourced and arranged for Mrs M. The actual contract for the installation of the carpet was between Mrs M and the fitter. The terms of the contract say the fitter is liable for the standard and quality of the installation.

Mrs M didn’t pay for the installation of the carpet on her credit card issued by JLFSL and so, there is no valid DCS agreement in place for the installation of the carpet. This means I can’t consider whether a breach of contract or misrepresentation occurred in respect of the installation.

I appreciate that Mrs M is likely to be unhappy with this outcome. However, as she has received what she was due to under the contract – which is the carpet and the sourcing of a fitter – no breach of contract or misrepresentation has occurred. This means I don’t consider that JLFSL has acted unfairly when declining Mrs M’s claim under s75.

### *Chargeback*

In this case, JLFSL didn’t attempt a chargeback as the carpet had been supplied and installed. I’ve considered whether JLFSL should have raised a chargeback when Mrs M complained to it. And if it should have, what, if anything, it should do to put things right.

A card issuer can attempt a chargeback in certain circumstances when a cardholder has a dispute with a merchant – for example when goods or services aren’t provided. Chargeback

isn't a legal right and there's no guarantee the card provider will be able to recover the money this way. However, it's generally considered good practice for a card issuer to raise a chargeback if there is a reasonable prospect of a chargeback succeeding. The chargeback process is subject to the rules of the scheme and strict criteria apply.

In this case, Mrs M received the goods and service she was due to under the contract paid for using her JLFSL credit card. And so, there would have been no reasonable prospect of success had a chargeback been raised under the relevant chargeback rule. This is broadly because of the same reasons I've detailed above when considering whether JLFSL declined Mrs M's s75 claim fairly or not.

And so, it follows that don't think JLFSL has acted incorrectly.

### **My final decision**

My final decision is that I do not uphold Mrs M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 7 February 2024.

Sonia Ahmed  
**Ombudsman**