

## **The complaint**

Mr G complains that Bank of Scotland plc, trading as Halifax, declined his claim under section 75 of the Consumer Credit Act 1974 for a refund of his credit card payment for renting and insuring a van.

## **What happened**

In August 2022 Mr G rented and insured a van online and paid over £600 for it with his Halifax credit card. The payment was made to a third party which I will call W, which was not the owner of the van but rather an online platform which introduces van owners to people who wish to rent them. Mr G rented the van for seven days for a holiday, but after the second day it broke down. He contacted the insurer and asked for an engineer to come out, but nobody came; nor was he given a hotel room, nor was transport home provided. He eventually had to abandon the vehicle in a safe place and make his own way home, his holiday ruined.

When he got home, Mr G asked Halifax for a refund. Halifax raised a chargeback, and got a partial refund of about 44% of the total. Halifax next considered MR G's claim under section 75, but it decided that W was not responsible for what had gone wrong, and so neither was Halifax, as under section 75 it was only liable for what W did. Being dissatisfied with that outcome, Mr G brought this complaint to our service.

Our investigator did not uphold this complaint. He said that W's terms and conditions stated that W did not have a contract with owners or renters – it merely introduced them to each other – and that it was not responsible for the quality of the vans. He said although W had sold Mr G the insurance policy, the policy had actually been provided by someone else, and so W and Halifax were not responsible for the provider's lack of assistance.

Mr G did not accept that opinion. In particular, he insisted that W was his insurer and not some other company. He asked to see evidence to the contrary, if any existed. The investigator told him that this was in W's terms and conditions, but Mr G did not accept that. Since no agreement could be reached, this case was referred for an ombudsman's 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.

Having done so, I do not uphold it. I will explain why.

The chargeback was partly successful, and the investigator has already sent Mr G a breakdown of how that refund was calculated and what it was for. I do not think that Halifax could have obtained a better result by way of the chargeback process, and so I have gone on to consider how it dealt with Mr G's section 75 claim.

Where goods or services have been paid for with credit, section 75 makes the credit provider (Halifax) jointly and severally liable with the supplier of the goods or services (W) for any

breach of contract by the supplier. Here, “the supplier” means the person the relevant payment was made to, not any other parties that may be involved, so it’s necessary to make sure what the scope of the supplier’s contract is.

W’s terms and conditions are published on its website. In section 2 it says:

*“[W] is an online platform that allows owners to post advertisements for the rental of their vehicles ... to potential renters. ...*

*“[W] provides the means by which Owners can enter into agreements directly with Renters for the rental of their recreational vehicle. However, [W] is not party to any agreement concluded between Owners and Renters. Owners and Renters are therefore entirely responsible for all agreements that they conclude, particularly with respect to the quality, safety and legality of rental vehicles, as well as the authenticity and accuracy of postings.”*

So there was no term of W’s contract to the effect that the van would be fit for purpose and of satisfactory quality.

Turning to insurance, section 2 also says:

*“[W] shall provide fully comprehensive insurance cover for rental vehicles on behalf of the Renter and the Owner.”*

Then in section 17, which is titled “Rental insurance,” it says:

*“Insurance is included within this agreement under the terms and conditions stated under Rental insurance. [W] is responsible for arranging insurance cover and paying monthly premiums.”*

Elsewhere on the website is the insurance policy document. It’s in French, but it clearly names the company which actually provides the insurance, and it isn’t W. But more helpfully, there is another document in English, which Mr G has seen because he provided it to the investigator by email on 25 April 2023 (the nine-page attachment).<sup>1</sup> On the first page it says in a very large font:

*“In the event of a claim covered by the insurance guarantees, our partner [company’s name] assumes the cost of the repairs.”*

And on page 6 it says that W’s parent company is “an insurance intermediary agent.”

So it seems that W sold the insurance policy to Mr G (or brokered the sale) and forwarded part of his payment to the insurance provider, which was another company. Halifax would be liable under section 75 if W had failed to do that, since it had contracted to do that. But it isn’t liable if the insurance provider fails to uphold a claim. That is the subject of a separate contract between Mr G and the provider (*i.e.* the policy document).

So for these reasons, I am satisfied that Halifax was entitled to decline Mr G’s claim under section 75.

## **My final decision**

My decision is that I do not uphold this complaint.

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<sup>1</sup> For ease of reference, I will arrange for a copy to accompany this decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 16 October 2023.

Richard Wood  
**Ombudsman**