

The complaint

Mr N is unhappy because TSB Bank plc didn't uphold his claim under section 75 of the Consumer Credit Act 1974.

What happened

In September 2022 Mr N purchased a car from a merchant and paid a deposit using his TSB credit card.

Mr N experienced issues with the car. He contacted the dealership but was unable to get things resolved so he obtained a quote and booked the car in for repairs at another garage.

Mr N contacted TSB and raised a section 75 claim. He sought a refund of the cost of repairs and disputed the deposit he'd paid to the merchant. TSB asked Mr N to provide an independent report confirming what the faults were.

Mr N provided documents showing the quote for repairs and the cost of the repairs. TSB didn't uphold Mr N's complaint. It said it didn't have enough information to pursue a section 75 claim.

Mr N remained unhappy and complained to this service.

Our investigator didn't uphold the complaint. He said that Mr N hadn't provided evidence to show that the fault was present at the point of supply. The investigator said that without this evidence, TSB couldn't establish whether there had been a breach of contract.

Mr N didn't agree. He said he'd notified TSB of his claim within 14 days of purchasing the car and said he'd provided a quote for repairs at that time. Mr N said the quote for repairs showed that the faults were present at the point of supply.

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 certain circumstances, section 75 gives a consumer a right to claim against a supplier of goods or the provider of credit if there's been a breach of contract or a misrepresentation. In order to uphold Mr N's complaint I would need to be satisfied that there's been a breach of contract or a misrepresentation and that TSB's response to the claim wasn't fair or reasonable.

The Consumer Rights Act 2015 is relevant to this complaint. This says that goods must be of satisfactory quality when supplied. Cars are of satisfactory quality if they are of a standard that a reasonable person would regard as acceptable, taking into account things such as the age and mileage of the car and the price paid. The legislation says that the quality of the goods includes their general state and condition, and other things like fitness for purpose, appearance and finish, freedom from minor defects, safety and durability.

If the car supplied to Mr N had a fault which made it of unsatisfactory quality then a breach of contract can be said to have occurred , which would give Mr N a potential claim under section 75.

I've reviewed all of the information that Mr N provided to TSB to support his section 75 claim. The quotation and repair documents show that the car had an issue with the wipers, the headlights and the air conditioning. I can also see that all four tyres were replaced.

The documentation shows that the car had some repairs carried out on it. But it doesn't establish that the issues were faults which were present or developing at the point of supply, or that these were faults which made the car of unsatisfactory quality.

I can see that TSB asked Mr M to provide an independent engineers report to prove that the faults were present at the point of supply. Mr N hasn't provided an independent report of this type. In the circumstances, I think TSB acted reasonably when it rejected the section 75 claim, because it didn't have enough evidence to show that the car was of unsatisfactory quality at the point of supply, and that there had therefore been a breach of contract.

For these reasons, I don't uphold the complaint. I think TSB's response to the section 75 claim was fair and reasonable.

My final decision

My final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 23 October 2023.

Emma Davy
Ombudsman