

The complaint

Mrs P complains about a decision by Vanquis Bank Limited ("Vanquis") not to uphold a claim she made to them under section 75 of the Consumer Credit Act 1974 ("section 75").

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here. Instead I'll focus on giving my reasons for my 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.

I know it will disappoint Mrs P, but I agree with the investigator's view of this complaint. Please let me explain why.

Where the information I've got is incomplete, unclear, or contradictory, as some of it is here I have to base my decision on the balance of probabilities.

I've read and considered the whole file, but I'll concentrate my comments 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.

When considering a complaint about a financial services provider, I'm not determining the outcome of a claim that a party might have under section 75. I take section 75 into account when I think about what's a fair way to resolve the complaint but I don't have to reach the same view as, for example, a court might reach if Mrs P made a claim through them for breach of contract or misrepresentation.

When something goes wrong and the payment was made, in part or whole, with a credit card, as is the case here, it might be possible to recover the money paid through a section 75 claim. This section of the Consumer Credit Act (1974) says that in certain circumstances, the borrower under a credit agreement has a like right to claim against the credit provider as against the supplier if there's either a breach of contract or misrepresentation by the supplier.

Mrs P says the engine repair to her van wasn't completed properly and that the van was returned to her by the supplier in an undriveable condition, with faults. If that could be shown to be the case I would think there had been a breach of contract.

But I'm not persuaded that Mrs P has been able to demonstrate the repair was unsuccessful or the van was returned to her in a worse condition than supplied, or with faults. I say that because:

- The collection report makes no mention of the van's driveability or faults. It's unclear what the presentation of the van was like before it was given to the supplier and as it had already completed about 200,000 miles I think it's plausible the condition it was returned in was the same as supplied.
- The breakdown reports don't explain there were problems with the supplier's work.
- The email trail between Mrs P and the suppliers doesn't suggest the supplier hadn't completed the work Mrs P paid for.

I don't therefore think Vanquis were unreasonable to reject Mrs P's section 75 claim and, as there was no concrete evidence of a breach of contract, I don't think they would have been able to successfully lodge a chargeback with the scheme providers.

My final decision

For the reasons I've given above I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 17 March 2022.

Phillip McMahon
Ombudsman