

The complaint

Mr W has complained about the way Lloyds Bank PLC handled a claim he made in relation to a car he paid for in part using a credit card.

What happened

Mr W purchased a used car for £3,795 in December 2020 from a car dealer. He paid £795 of this using his Lloyds credit card. The car was around 15 years old and had covered around 54,000 miles when Mr W bought it. It looks like the car came with a 3 month or 3,000-mile warranty, and a pre-sale check was carried out by the supplying dealer. Evidence indicates the car had a service and timing chain replacement carried out when it was sold as well.

From what I've seen when buying the car Mr W noted the MOT wasn't valid for very long and he said a wing mirror wasn't folding in. So he allowed the supplying dealer some time to put things right. He said he had to amend the car tax because it was under disabled car tax at the time, and he was only given one spare key and part service history. He was reassured the timing chain had been changed. He said the pre-sales checklist wasn't signed by him and that the supplying dealer wasn't able to repair the wing mirror, so it was disconnected. Mr W says a few days later he needed to buy a new battery and he said he had to claim through cover because the alarm wasn't working. He's also highlighted other repairs he had carried out.

From what I've seen, the car broke down in around April 2022 and it was taken to a garage for inspection. The mileage was around 60,000.

I can see in July 2022 Mr W put in a complaint about the quality of the car with the supplying dealer. He said that as there was a problem with the goods, he wanted a full refund.

Mr W took the car to a manufacturer dealer in October 2022 for inspection due to a knocking noise from the engine. The manufacturer dealer said there was excessive movement on big end shells and lots of debris in sump of bearing material. It gave an estimate to supply a second-hand bottom end and rebuild head with new valve seals of around £1,600. In October 2022, the manufacturer dealer gave a quote to replace the engine for around £4,000. I understand Mr W also contacted Lloyds around this time to put in a claim under section 75 of the Consumer Credit Act 1974. And I understand he told it that the plastic guides weren't changed when the timing chain was replaced which has caused the knocking noise in the engine. The notes I've seen indicate he said he'd needed to change the brakes and pay to have the car recovered.

Lloyds said it requested information from Mr W and it declined the claim in November 2022 due to lack of evidence. Lloyds said Mr W was unhappy with this and it gave him £65 compensation because Mr W had said he wasn't notified of the claim outcome and that some of his emails to Lloyds had bounced back. Mr W supplied evidence, but Lloyds declined the claim again in January 2023 due to lack of evidence the car was of unsatisfactory quality at the point of sale. Mr W was unhappy with the outcome, and he raised a complaint. Lloyds issued a final response in May 2023 saying it agreed the section 75 claim was fairly declined because Mr W hadn't shown it the car was not of satisfactory

quality at the point of sale. But it paid Mr W £75 because it didn't call him back when promised. Mr W referred his complaint to the Financial Ombudsman.

One of our investigators looked into things and said Lloyds' response to the claim broadly seemed fair, and that the compensation it paid also seemed reasonable. Mr W didn't agree, so 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 want to acknowledge I've summarised the events of the complaint. I don't intend any discourtesy by this – it just reflects the informal nature of our service. I'm required to decide matters quickly and with minimum formality. But I want to assure Mr W and Lloyds that I've reviewed everything on file. And if I don't comment on something, it's not because I haven't considered it. It's because I've concentrated on what I think are the key issues. Our powers allow me to do this.

What I need to consider is whether Lloyds – as a provider of financial services – has acted fairly and reasonably in the way it handled Mr W's request for getting his money back. It's important to note Lloyds isn't the supplier. I've gone on to think about the specific card protections that are available. In situations like this, Lloyds can consider assessing a claim under section 75 or raising a chargeback.

Section 75 is a statutory protection that enables Mr W to make a like claim against Lloyds for breach of contract or misrepresentation by a supplier paid by credit card in respect of an agreement it had with him for the provision of goods or services. But there are certain conditions that need to be met for section 75 to apply. I think those necessary conditions exist for a claim to be considered.

The chargeback process provides a way for a card issuer to ask for a payment to be refunded in certain circumstances. The chargeback process is subject to rules made by the relevant card scheme. It's not a guaranteed way of getting money back.

The chargeback process would only cover Mr W for the amount paid on his card. As his claim was for more than this amount, I think it was fair of Lloyds to consider the claim under section 75. So this is what I'll focus on. And for the avoidance of doubt, I'm only considering how it acted up to the point it issued its final response because this relates to the events it's had the chance to consider. Any complaints about things that have happened after this point would need to be taken up with Lloyds in the first instance. And if Mr W is unhappy with its response, it might be something our service is able to consider for him. I think this is important to note because there has been some more recent communication about the claim between the parties, and I can see Mr W has raised separate complaints.

The Consumer Rights Act 2015 (CRA) is also relevant to the complaint. The CRA implies terms into the contract that goods supplied will be of satisfactory quality. The CRA also sets out what remedies are available to consumers if statutory rights under a goods contract are not met.

The CRA sets out that goods which do not conform to the contract at any time within the period of six months beginning with the day on which the goods were delivered to the consumer must be taken not to have conformed to it on that day unless it's established the goods did conform to the contract on that day or that the application is incompatible with the nature of the goods or with how they fail to conform to the contract.

The car was used when Mr W bought it, so I'd have different expectations of it than if it was new. It was around 15 years old and had covered around 54,000 miles. Mr W paid £3,795 for it. Which is a lot less than it would have cost if it was new. The price paid broadly reflects the age and condition of the car. And there's a higher likelihood of things going wrong on an older, more used car than one that was newer, and would likely have cost more. I appreciate Mr W says he had some issues when he bought the car but, from what he's said, he was happy to proceed with the purchase at the time. He's also highlighted various repairs he had carried out but didn't supply further supporting evidence to Lloyds.

I can see there were faults with the car. Mr W supplied evidence it broke down. And he's also supplied evidence of quotes for repair work. But in order for me to find there'd been a breach of contract that Lloyds would be liable for I'd need to see firstly that there are faults with the car, and secondly that those faults made the car of unsatisfactory quality when it was sold to Mr W. The problem I have is that I've not seen enough evidence to determine that's the case. I take on board Mr W's point that something wasn't done when the timing chain was replaced. But I've not seen any independent evidence that the current issues with the car were present or developing at the point of sale.

I've reviewed the documentation that Mr W supplied to Lloyds. These include MOT history; complaint letters from Mr W; the car's advert; a sales invoice; a sale inspection; limited service history; quotes for repair; engine photos; warranty record and payments for the warranty; a breakdown of costs; a V70 form to apply to change vehicle tax; the V5C registration certificate; and a vehicle health check. But these documents don't show that, on balance, any faults with the car were as a result of something that made it of unsatisfactory quality at the point of sale given its age and mileage.

Given Mr W had the car for nearly two years by the point he put in his claim with Lloyds, I think the onus was on Mr W to show that there were faults with the car and that those faults made the car of unsatisfactory quality. The car was around 17 years old when Mr W put in his claim and had covered around a further 5,000 miles, which I think indicates it was likely of satisfactory quality given its age and mileage at the point of sale, even taking into account the repairs Mr W says he had carried out. While I sympathise there were issues with the car, I don't think the documents he supplied, during the period I'm considering, do enough to show there was a breach of contract that Lloyds would be liable for. And based on what I've seen, I think Lloyds allowed enough time for Mr W supply his evidence. It reopened the dispute after initially closing it down and went through what Mr W was able to supply. Based on that further submission it didn't think there was enough to uphold the claim. And for the reasons I've given above, I haven't seen enough to say that it's response to the claim was unfair.

I can see Lloyds made two payments to Mr W in relation to its handling of the claim. £75 for not calling him back when agreed, and £65 because Mr W said he wasn't informed of its decision. I think those payments seem broadly fair and reflective of the mistakes made. But I don't find I have the grounds to direct Lloyds to do more.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 18 January 2024.

Simon Wingfield

Ombudsman