

The complaint

Mr F has complained about the way Bank of Scotland plc trading as Halifax dealt with his claim for money back in relation to a purchase he made using his credit card.

What happened

The circumstances of the complaint are well known to the parties and some parts of it are resolved. I'm not going to go over everything again in detail but, in summary, Mr F bought a shower enclosure and tray from a supplier I'll call "S" in October 2022. The goods cost nearly £500 and he paid 18pence towards it using his credit card.

Mr F says when it came to installing the shower enclosure, he noticed some issues. He said the waste hole in the shower base was in a different location to the sales picture on S's website. And that after installing the shower enclosure he said the glass only had anti limescale coating on one side, and the way it was installed meant the coating was on the wrong side. He said he found this out because there was a sticker saying the coating was on the other side on one of the panels. But the panel could only be installed a certain way which he said meant the coating was on the outside of the enclosure, defeating the purpose of it.

Mr F contacted S to ask for help. I'm not going to comment further on the waste hole because that issue has now been resolved. But Mr F wasn't happy with S's explanation in relation to the coating. S had got in contact with the manufacturer of the shower enclosure. I understand Mr F said the manufacturer told him the sticker may have been placed on the incorrect side, or the glass may have been fitted in the wrong direction in the factory. He said the manufacturer told him to try splashing water on both sides of the panel to see if he could notice the difference. Mr F said he tried this and said he couldn't really tell any difference. He liaised with S further, but it ultimately concluded there'd been no breach of contract because it thought the coating was on the correct side based on evidence it had seen from Mr F and from the manufacturer. Mr F decided to contact Halifax to put in a claim.

Halifax said it didn't have chargeback rights for the 8pence paid with the credit card, but Mr F said it should consider the claim under section 75 of the Consumer Credit Act 1974. Halifax didn't offer a refund, so Mr F referred his complaint to the Financial Ombudsman to consider. Halifax didn't initially think the claim was covered under section 75. It later agreed it was, but it said it didn't think it'd seen enough to support Mr F's claims.

One of our investigators looked into things and didn't think she'd seen enough evidence of a breach of contract. Mr F didn't agree, he supplied two videos which he said showed the water droplets on his enclosure didn't run down the glass in the same way as the promotional video. He said the key evidence is the sticker set out the coating was on the wrong side. As things weren't resolved, the complaint has been passed to me to decide.

I asked our investigator to contact Mr F for further information. I explained it was difficult to reach firm conclusions on whether there'd been a breach of contract based on the evidence I'd seen. I asked how Mr F had determined the coating was only on one side of the glass and what supporting evidence there was. I asked if that was just because of the sticker issue. I asked for evidence showing the panel couldn't have been turned around. I also

asked what evidence Mr F had showing the inside of the relevant panel is different to one of the others. I explained that presumably Mr F was saying the other inside panels had the coating. So I asked what difference there was and for supporting evidence, for example a video showing the difference between the panels. I said based on what I'd seen so far, I'd like to have been more certain there was a breach of contract but invited Mr F to supply further evidence.

Mr F supplied a copy of the correspondence he had with S. He sent a picture of the fitting instructions and the panels. He explained he thought the sticker indicated the coating was only on one side of the glass. He said there are several videos but judging how water flows on a pane of glass is subjective. But he said the issue with the sticker wasn't. He also said the evidence showed the panel couldn't be fitted in the other direction. He said he thought the manufacturer may have installed the panel in the end bracket the wrong way. He said the coating was clear or invisible so he couldn't tell what side it was on, but he said he believed there to be a larger limescale build up on the end panel compared to the side panel but again said this was subjective. He said it was clear that something had gone wrong because the glass was fitted incorrectly, or the sticker was on the wrong side. He said he tried to sort it out straight away but hasn't been helped.

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

Seeing as though the chargeback would only cover the amount Mr F paid on his card, I've focussed on Halifax's response to the section 75 claim.

Section 75 is a statutory protection that enables Mr F to make a like claim against Halifax 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. I think the necessary relationships between the parties exist and the claim is within the financial limits for section 75, and I agree it doesn't make a difference on Halifax's liability even though it only partially funded things.

I can understand why Mr F was concerned to see the relevant panel could only be installed a particular way and there was a sticker on it saying the coating was therefore on the 'wrong' side. Things were complicated slightly because the panel was installed before the issue was raised with S. Arguably Mr F could have sought help before installing it, but it may have been too late to stop the installation before it was noticed.

However, the problem I have is that I'm not persuaded the sticker issue proves there's been a breach of contract. I take Mr F's point that something has gone wrong with either the panel

or the sticker. But either explanation is plausible. Like our investigator pointed out to Mr F, I'd like to have been more certain on this point. I've seen two videos I highlighted in the background. One of the panel in question, and one of a promotional video for the enclosure. But I've not seen enough to show the relevant panel acts any differently to the other panels. I appreciate Mr F says the videos would be subjective, but I'd like to have at least seen something to compare. That's why I wanted to give Mr F another opportunity to supply evidence for his complaint. Without that further evidence I don't think there's sufficient grounds to say there's been a breach of contract that Halifax should be held liable for.

Therefore, while I know Mr F will be disappointed, I'm not going to direct Halifax to take any action. For the avoidance of doubt, I'm not saying that something hasn't gone wrong. But, as I said above, I'm required to decide this complaint quickly and with minimum formality. Based on the evidence Mr F has supplied, I don't find I have the grounds to direct Halifax to put things right.

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 F to accept or reject my decision before 25 March 2024.

Simon Wingfield
Ombudsman