

## **The complaint**

Mrs M complains about the way Bank of Scotland plc trading as Halifax dealt with a claim she sought to bring against it under section 75 of the Consumer Credit Act 1974 ("section 75").

## **What happened**

In November 2022 Mrs M contracted with a merchant (who I'll call "S") for the supply and installation of a kitchen. She had three invoices for the purchase – the first was for kitchen units costing £25,000, the second was for worktops and installation costing £25,000 and the third was for appliances costing £12,500. She paid a deposit of £250 using her Halifax credit card for each of the three invoices and sent further funds to S via bank transfer.

In May 2023, the worktop was installed, and Mrs M was unhappy with it. An attempt to repair was made by S and as this did not work to rectify the issues, Mrs M rejected the goods. S agreed and refunded Mrs M £16,292.30 which was the cost of the worktop from the second invoice. As I understand it, no agreement could be reached between the parties about how to rectify the situation from this point.

Mrs M therefore sought to also seek a refund for the kitchen units from the first invoice. She says the units were not to be ordered until after the worktop had been installed and furthermore, the units were of no use without the worktop. S declined to provide a refund for the units so Mrs M brought a claim to Halifax under section 75. Mrs M said S had misrepresented its experience and taken on a job it could not fulfil adequately.

Halifax reviewed Mrs M's claim and said the claim fell outside the scope of section 75 as the total cost was more than £30,000. It also said that even if the invoices were not linked together and were treated as separate, there is not enough evidence to support a breach or misrepresentation of the contract.

Mrs M brought her complaint to our service and our investigator was of the same opinion as Halifax. As Mrs M remained unhappy, 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.

Mrs M has sought to bring a claim against Halifax under section 75. This legislation is a provision of the Consumer Credit Act that creates a mechanism by which Mrs M might be able to pursue a claim against Halifax for a breach of contract or misrepresentation by S.

For section 75 to apply, there is a provision that requires that the claim relates to any single item to which S attached a cash price of more than £100 but less than £30,000. Whether this requirement is met is the point of contention on this complaint and where I will focus to start with.

Mrs M has supplied us with two invoices of £25,000 each and has told us that the worktops and kitchen units were purchased separately for specific reason. Mrs M explains the invoice for the kitchen units was a provisional separate order and final confirmation would be made once the worktops were fitted as the installation of the worktop could fail, or there could be a change in space. This would mean amendments would need to be made to the units. It appears that S ordered the units before the worktop was installed. Mrs M has also told us that she now does not require the units as they are of no use to her without the worktop, which S is not able to install for her after their previous failed attempt. This is why she is attempting to reject them.

As our investigator has informed Mrs M, we've also been in touch with S who have provided us with a third invoice for appliances. This brings the total of all three invoices to £75,000. Mrs M has told us there were slight changes in cost as the process of fitting a new kitchen began so the total cost is in or around £75,000 although I am not aware of the exact end amount.

When considering whether this claim falls over the threshold of £30,000 or not, I have considered what service Mrs M was contracting for. Mrs M's intent was she required a new kitchen to be installed into her home. She went to one company and asked it to both supply and install all the goods needed to achieve this intent. The evidence that supports this is the quotation. Along with a floor plan, S provided a detailed quotation which outlined all the works it was committing to, and this included both the supply and installation of all the goods listed across the three invoices. The total cost on the quotation exceeds £30,000.

It therefore follows that the total cash price attached to the services S was due to render to Mrs M was the sum of all three invoices, and therefore falls outside the financial limits set out in section 75. I appreciate Mrs M strongly disagrees this is the case and has made extensive arguments as to why they should be treated as separate. However, my finding is that in its entirety, this is one contract for services and its total exceeds the upper limit of £30,000 under section 75.

For the avoidance of doubt, I will add that my role here is to consider whether Halifax has treated Mrs M fairly and reasonably when handling her claim under section 75. Halifax told Mrs M it felt her claim fell outside the financial limits of section 75 and as explained above, I agree this is the case. Halifax also told Mrs M that even if it did consider the invoices to be separate, it didn't think there was enough information to support a claim for breach of contract or misrepresentation. I will consider this next.

Mrs M says the kitchen units are not fit for purpose as she does not have the worktop. She refused delivery of the units and claims S are in breach of contract for that invoice. However, as our investigator has explained, if we follow Mrs M's logic through and accept that the kitchen unit and worktop invoices are not linked, then one could not possibly depend on the other for fulfilment. In that case, the kitchen units have been supplied as ordered and there has been no breach of contract for the units. So, a claim for breach of contract would not succeed.

Mrs M also claims S misrepresented its experience to her. In law, misrepresentation is a false statement of fact or law made by one party to the other that induces the latter to enter into a contract and incur loss. On my review of the information supplied, I am not satisfied there is enough evidence to support a claim for misrepresentation, and specifically that any misrepresentation induced Mrs M into the contract. So, I don't find that Halifax has treated Mrs M unfairly in the way it has handled her claim.

I recognise the distress and financial implications on Mrs M arising from this matter, however for all the reasons listed above, I find firstly that this claim falls outside the financial limits set

out in section 75. In the alternative, I have also explored and concluded that even if we were to treat the invoices as separate which would bring the claim within the financial limits, there is not enough information to support a successful claim for breach of contract or misrepresentation. Lastly, the information suggests delivery of some of the kitchen units were accepted and some were rejected, although I do not have the specifics of this. Mrs M may want to consider recovering any rejected units from S if she is not in receipt of units she has already paid for.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 11 February 2025.

Vanisha Patel  
**Ombudsman**