

The complaint

Mr A complains that The Royal Bank of Scotland Plc (“RBS”) didn’t fairly deal with a claim he made under Section 75 (“S75”) of the Consumer Credit Act 1974 (“CCA”) in relation to a purchase he made with a supplier.

What happened

Mr A has a credit card with RBS. In October 2023 he submitted a claim to RBS for non-delivery of a building contract service. He said the amount claimed was £12,973.88 for materials and £11,875 for labour (total £24,848.88). He said as part of the claim process he was required to submit evidence of the contract, invoices, receipts etc and to also obtain a professional opinion on the work completed by the building contractor. Mr A said the cost of that professional was £1,750 and he advised the bank at the time he wished to claim for this cost as well, since he believed that consequential costs can be claimed under S75 of the CCA.

Mr A told this service that RBS subsequently settled the cost of the defective work under a chargeback claim but have not settled the claim for the professional opinion. He said he’s been denied the ability to claim for the additional costs incurred.

In its final response RBS said the value of the contract was over £30,000 and as such S75 wasn’t applicable and so it wasn’t liable for the consequential losses. Mr A didn’t agree and brought his complaint to this service. He said he wasn’t told the claim wasn’t possible. He said the contract was for multiple items (material and labour) and no single item exceeded £30,000. He said he should’ve been able to submit the claim under the CCA and that RBS had subsequently settled the cost of the defective work under a chargeback which, he said, demonstrated his claim was valid.

Our investigator concluded that RBS had acted fairly and reasonably when it denied Mr A’s S75 claim. Mr A wasn’t satisfied and asked for a decision from an ombudsman. He made some additional comments to which I have responded below where appropriate.

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 realise this will come as a disappointment to Mr A but having done so I won’t be asking RBS to do anything further.

In deciding what I believe to be fair and reasonable in all the circumstances I’m required to consider relevant law, rules, guidance, codes of practice as well as what I consider to have been good industry practice at the time.

Mr A’s claim was first addressed by RBS under the chargeback scheme. Chargeback is a transaction reversal made to dispute a card transaction and obtain a refund if there is a problem with the product. Mr A’s chargeback claim was successful, so I don’t need to go into

the details of that here. Mr A believes he should be reimbursed the cost of the independent report he paid for to support his chargeback claim under S75 of the CCA. RBS has accepted that in principle, consequential losses can form part of a S75 claim, but denies liability on the basis that the underlying transaction falls outside the financial limits of S75.

S75 is relevant here. It protects consumers who buy goods and services on credit. It says, in certain circumstances, the finance provider is legally answerable for any misrepresentation or breach of contract by the supplier.

In the legislation S75

“Liability of creditor for breaches by supplier.

(1) If the debtor under a debtor-creditor-supplier agreement falling within section 12(b) or (c) has, in relation to a transaction financed by the agreement, any claim against the supplier in respect of a misrepresentation or breach of contract, he shall have a like claim against the creditor, who, with the supplier, shall accordingly be jointly and severally liable to the debtor.

(3)(b) Subsection (1) does not apply to a claim—:

So far as the claim relates to any single item to which the supplier has attached a cash price not exceeding £100 or more than £30,000.”

The latter limit is from The Consumer Credit (Increase of Monetary Limits) Order 1983—:

“Upper exemption limit for cash price of goods or services to which liability of creditor for breaches by supplier applies.”

Mr A has said that on the contract the materials were payable prior to commencement of the contract. He said his interpretation of S75 is that individual items need to be less than £30,000 and his contract was for materials (one item) and labour (another item), and each of these was less than £30,000. In his response to our investigator Mr A reiterated the contract clearly stated it was divided into materials, paid up front, and labour payable in staged payments.

I've looked at a copy of the contract/quote. The value of the contract is above £30,000. The contract is itemised only in so far as what is included in the contract. The items are not individually priced. It says:

<i>Full Project</i>	
<i>Net</i>	<i>£25,625</i>
<i>VAT</i>	<i>£5,125</i>
<i>Total Cost</i>	<i>£30,750</i>

The payment terms are listed as follows:

- *£1,000 deposit to secure booking*
- *Customer covers the cost of materials and waste removal five days before the start date.*
- *Final payment after completion - remaining balance.*
- *Staged payment plan will be set up for every five days worked on the project - staged payment amounts to £4,350.*
- *Payment options: 5% deposit to secure booking and then cover the cost of materials and waste removal, the customer will also opt into a structured payment plan to be paid every 5 working days until job completion.*

There is only one contract and price, which is for the full project rather than individual or separate contracts for materials and labour. I also note there were materials e.g. porcelain paving and sleepers that were to be supplied by Mr A separately. The price of materials is not separated on the contract. The only itemisation is VAT. So, I'm persuaded the cash price attached by the supplier to the single item that is the full project exceeds £30,000 for the single item and so falls outside of the remit of S75.

Mr A has said no one advised him S75 didn't apply, and it was RBS who required the independent expert opinion. He said he tried to get it free but, in the end, had no choice other than to pay the expert. He said the expert's report vindicated that his statements to RBS were true. I understand Mr A's frustration, but it is fair in the circumstances of this complaint for RBS to ask for evidence in order to substantiate/support the claim whether made by chargeback or directly against the bank. And it would be normal to handle the claim through chargeback in the first instance. Further, the report would appear to represent evidence that might be of assistance to Mr A in pursuing his claim against the building contractor. It is open to him to seek recovery of that cost as part of any proceedings he might take against that party. Overall, I don't consider there's a basis for me to say RBS needs to reimburse that cost.

Mr A has said the fair consumer outcome is for the complaint to be upheld. He said he believes RBS made a mistake and our investigator agreed with it but then changed their mind for an unexplained reason. He said this is a case of consumer harm in a culture of Consumer Duty.

I understand Mr A's perspective. But our investigator formed their opinion and set out their reasoning in their complaint assessment. And in conducting my own review and determination of RBS's actions it's not necessary for me to consider the thought processes of our investigator. In addition, the Consumer Duty does not mean that consumers are protected from any and all harm. The harm Mr A has experienced flows from the failings he alleges against his building contractor, rather than from the regulated financial service RBS has provided to him.

I'm persuaded there is one contract to which the supplier has attached a price and it exceeds the £30,000 limit for claims under S75. I'm sympathetic to the fact this is not the news Mr A would like but I'm satisfied RBS has acted fairly and reasonably when dealing with his claim and I won't be asking it to do anything further.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 15 May 2025.

Maxine Sutton
Ombudsman