

The complaint

Mr C complains about issues with a car he bought, in part, with his HSBC UK Bank plc trading as First Direct credit card. He also complains the car was misrepresented to him. He would like to either return the car for a full refund or receive £4,373.45 to keep the car.

What happened

The details of this complaint are well known to both parties so I won't repeat them again here, instead I will focus on giving the 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.

Having done so I have reached the following conclusions: -

- I appreciate it must have been frustrating for Mr C when issues arose with the car. It's unfortunate but issues can occur with cars and that's more likely with used cars, and the car he bought was 11 years old with 86000 miles on the clock when he got it.
- Mr C put in a Section 75 request to First Direct. Section 75 allows, in certain circumstances, for a claim against the credit provider if there has been a breach of contract or misrepresentation.
- Mr C feels the car was mis represented to him as the advertisement referred to several feature such as a sunroof, 12 months MOT, full-service history, certain tyres, electronic seats, and a cooler. I accept that at least some of these items are likely to be ones that induced Mr C to buy the car.
- However, First Direct has pointed out, and I agree, that Mr C had the opportunity to see, inspect and test drive the car before he paid the full balance. I think it's likely that he would have noticed items specified in the advertisement weren't present so could have chosen not to go ahead with the purchase but didn't. He could also have chosen to get the car independently inspected at this point but didn't.
- Also, Mr C accepted a £900 reduction in the cost of the car when he got it. He disputes that this sum was in consideration of the missing features saying it was to cover no trade in and the state of the car. I think the state of the car would reflect how Mr C found it on the day including the missing items which I think he must have noticed at the time.
- From the correspondence First Direct provided it's clear Mr C changed his mind several times between wanting to reject the car or have repair costs covered. Mr C told us he asked to reject the car within the 30 days he had to do so but the dealership didn't agree to this. I have seen evidence to support this, but, by then, from the invoices he supplied I can see Mr C had already had work carried out on the car. Unfortunately, doing this made a full refund and rejection within 30 days an inappropriate remedy. So, I don't think HSBC were wrong to reach this conclusion.

- Mr C says he had the car repaired at a total cost of £2,811.33. From what I have seen he finally agreed on 2 November 2023 to a payment from the dealership of £895.75 and from First Direct of £1,879.88. I understand the car is now in good working order following the repairs, so I think any fault issues are now resolved.
- However, Mr C subsequently sent us a valuation for the car which he feels has been reduced because of the missing service history. The online valuation states a vehicle would need to be inspected, and assumes it has some service history. The HPI indicative value Mr C has provided makes the point that to retain as much of its value as possible service history should be kept up to date. I appreciate one of the issues with the car was a lack of service history.
- I am not sure when Mr C became aware of the service history issue, but I am surprised he didn't obtain this prior to buying the car or pursue this when he viewed, and test drove the car and discovered differences between the car and the advertisement. I also can't be sure that the £900 price reduction wasn't, in part, to reflect the service history. Notwithstanding this I can't reasonably ask First Direct to cover a potential loss of value in the future. We can't predict what exactly a future sale price would be, this could be influenced by a number of different factors not simply service history.
- I think that First Direct has dealt with Mr C's Section 75 request appropriately. I think its decision, based on the price reduction and repair costs being covered, is fair in the circumstances. I believe First Direct has made its payment of £1879.88 but the dealership has not yet made the payment it agreed to of £895.75. We have spoken to First Direct about this to explain that, under a Section 75 claim, it is jointly responsible with the retailer for any redress. First Direct accepts this so it will need to pay Mr C the sum agreed with the dealership of £895.75. It can of course, seek to recover this from the dealership.

My final decision

My final decision is that I uphold this complaint.]

In full and final settlement HSBC UK Bank plc trading as First Direct should pay Mr C £895.75 - the outstanding amount owing under his Section 75 claim.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 26 November 2024.

Bridget Makins
Ombudsman