

The complaint

Mr K complains about a claim he made to Lloyds Bank PLC (Lloyds) in respect of a deposit not having been returned following the cancellation of a contract.

What happened

In January 2024, Mr K paid a £5,812 deposit to a merchant who I'll call A. Mr K contracted with A to manufacture and install a living space at his property and the total cost of the works was £58,117. Mr K used his Lloyds credit card to make the payment.

The contract for the works was signed on 29 January 2024. A surveyor attended the property on 2 February 2024 and Mr K states it became clear that the measurements were incorrect, and the designs were not clear. Mr K told the surveyor he would not proceed with the work on this basis, but he signed the survey form and continued liaising with A on the understanding that these issues would be rectified. Following this, a copy of the living space drawing and a payment schedule were sent to Mr K on 20 February 2024. Mr K states the measurements on this document were also incorrect. Mr K was sent a further set of revised measurements and was offered a variation of contract outlining the changes in measurement on 28 February 2024 which he did not sign.

On 1 March 2024, Mr K contacted A and advised he had some issues with the documents received. Mr K was looking to cancel the contract at this time. A informed Mr K that as per the terms and conditions of the contract, for cancellation at that stage, he would be liable for 20% of the total cost of the works. A has confirmed that it retained the deposit, and A's position is that Mr K owes it £5,811.40 additionally to satisfy the contract terms.

Later in March 2024, Mr K contacted Lloyds to raise a payment dispute for the deposit amount. Mr K said the work was not done with reasonable care and skill as per Section 49 of the Consumer Rights Act 2015 (Section 49) and in the alternative, when he informed the surveyor he did not wish to proceed with the contract as it was, he had cancelled within 7 days of the contract having been formed (the cooling off period), so he was entitled to a refund of the deposit paid.

Lloyds raised a chargeback under the reason code 'Goods or services were either not as described or defective'. A initially defended the chargeback and Lloyds challenged the defence provided. As A continued to defend its position, Lloyds reviewed the dispute and declined to proceed with the chargeback any further. Lloyds said that the only signed contract is the one with the incorrect projections and so the merchant has not breached the contract as the design projection was correct. It further said that Mr K cancelled within the cooling off period but as he continued to work with A after this, the cancellation was overridden. Lloyds did not think the dispute would be successful so referred the matter to be reviewed under Section 75 of the Consumer Credit Act 1974 (Section 75) instead.

Lloyds reviewed the claim under Section 75 and said that as the total sum of the contract was more than £30,000 it couldn't consider the claim under this legislation. Mr K raised a complaint and Lloyds defended its position. So, Mr K brought his complaint to our service.

Our investigator reviewed the complaint and said Lloyds was correct to say the claim couldn't be considered under Section 75 as the total cost of the contract was over the financial limits set out in the legislation. He said the only option available for this dispute was through a chargeback. Our investigator said he couldn't see any evidence that the contract had been cancelled within the cooling off period. He further said that as per the contract, the time to address any discrepancies with measurements would have been after the survey had been completed and A was working with Mr K at the time to ensure the measurements for projection were correct before it started the manufacturing process. Our investigator found the claim had little prospect of success due to this and because the cancellation terms were clear, he didn't think Lloyds treated Mr K unfairly when it declined to progress the dispute any further.

Mr K disagreed with the outcome of the complaint. He said Lloyds' failures include the way in which his dispute was handled and poor communication for which compensation is warranted. Mr K disagreed that the full contract price should be considered for Section 75 as opposed to the 20% of the contract price that A were attempting to retain upon cancellation. Mr K said he was asked to obtain an independent building report for which he incurred costs, and he would like this reimbursed. Mr K also said that under Section 49 A was required to carry out all works with reasonable care and skill. He had informed the surveyor that he did not want to proceed with the contract on 2 February 2024 which was within the cooling off period, so a refund of deposit is warranted.

Mr K asked for an ombudsman to consider his complaint, so the complaint has now 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 would like to start by saying that I have provided a brief summary of the events that occurred above. I intend no discourtesy by this and can assure both parties that I have taken all the information provided into consideration when reaching a decision on this complaint.

In this decision, I'll concentrate my comments on what I think is relevant. If I don't comment on a specific point, it's not because I've failed to consider it, but because I don't think I need to comment in order to reach a fair and reasonable outcome. Our rules allow me to do this, and this reflects the nature of our service as a free and informal alternative to the courts.

I also think it's worth clarifying that I'm deciding whether Lloyds acted fairly in assisting Mr K with his dispute against A. I'm not making a finding on the underlying dispute Mr K has with A. Lloyds did not retain the deposit Mr K is attempting to recover, so when considering what's fair and reasonable, I'm only considering whether Lloyds acted in line with its obligations as a provider of financial services.

Section 75

Section 75 of the CCA allows – in certain circumstances - for a creditor (Lloyds) to be jointly and severally liable for any claim by the debtor (Mr K) of breach of contract or misrepresentation made by a supplier of goods and/or services (A). There are certain conditions which need to be met for Section 75 to apply. The legislation outlines that Section 75 does not apply *“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.”*

I can see that in this case, the 'single item' in question is the manufacture and installation of

a living space, and the services are undertaken by the same merchant (A). The total cost of the contract (and therefore the single item) is £58,177. This is well over the financial limit of £30,000 set out in the legislation so I'm satisfied that this claim cannot be considered under Section 75 and Lloyds did not treat Mr K unfairly by refusing to progress the claim on this basis.

I understand that Mr K has been advised by a third party that as the current dispute between him and A is for 20% of the contract price (as per the cancellation terms) and this is within the financial limits, the claim can be considered. I'm afraid I don't agree. The legislation allows a financial provider to be held jointly and severally liable for a breach of contract or misrepresentation made by the merchant and speaks specifically to the single item contracted for. Here, the single item is the living space, and the total cost to manufacture and install the living space as per the contract is what needs to be considered rather than a portion of it.

Chargeback

Chargeback is a voluntary scheme under which settlement disputes are resolved between card issuers and merchants, under the relevant card scheme. A card issuer will review the claim against the possible reasons for a chargeback and look at whether it would be able to make a successful claim for the customer. Card issuers do not have to submit claims and usually will only do so, if it is likely to be successful. We don't expect them to raise a claim if there is little prospect of success.

The contract allows for a refund of the deposit made if cancellation takes place within the cooling off period. The contract then has a tiered refund system depending on the stage at which cancellation takes place. Lloyds raised a dispute under reason code 'Goods or services were either not as described or defective'. A defended the dispute and provided information to show that it was working with Mr K to rectify the concerns he had raised, and Mr K cancelled the contract after the cooling off period had elapsed. Based on the stage of the process at which Mr K did cancel, Mr K owed A 20% of the total contract price as a cancellation fee.

Lloyds reviewed this information and sent a rebuttal to A. It asked it to reconsider its position as Mr A had told the surveyor in person and later in writing that the measurements and design were not suitable, and as there had been a substantial modification of the original contract, the goods/services were not what Mr K had agreed to when he signed the original contract. A continued to defend the dispute.

On review of the information provided by A, Lloyds determined that Mr K did request cancellation within the cooling off period but he also continued negotiations with the merchant during this time, which overruled the cancellation requested. By 1 March 2024, when a cancellation request was made in writing, the cooling off period had elapsed and Mr K was liable for cancellation costs as per the contract at that time. A sent Mr K a variation in contract but as this was not signed, no new cancellation dates applied and so Lloyds found the dispute had low prospects of success.

Based on the information I have seen, I find this was a reasonable approach to take. I say this because although neither party is disputing that Mr K said he does not want to proceed with the contract within the cooling off period, I've seen nothing to suggest that he followed the guidance in the contract as to how a contract should be cancelled, or that his intent was not to keep working with A to rectify the issues with measurement and design at that point in time. This does not satisfy the contract criteria for cancellation and Lloyd's conclusion Mr K's continued engagement with A overruled the cancellation request is reasonable. This meant Mr K was not automatically entitled to a refund of the deposit and the tiered cancellation fee.

terms now applied.

I appreciate Mr K said the contract was not handled with reasonable care and skill as per Section 49, however based on the fact that the original contract had certain measurements and it was signed by Mr K, it was reasonable for Lloyds to conclude that this meant A were working towards an agreed contract and as such, there was no breach of it at that time. It appears that despite trying to work with A, Mr K lost faith in its ability and this led him to cancel the contract. Although I understand why that might be, my review is limited to reviewing the actions Lloyds took when considering his dispute and whether they were reasonable, as opposed to assessing whether A breached its contract and failed to provide services to Mr K in an acceptable way. The chargeback reason codes outline the evidence required for successful disputes to be raised and based on the information Lloyds had which also makes clear that A were sending revised measurements and attempting to resolve the issues prior to starting the manufacture process, I agree that the dispute had low prospects of success. So, I conclude it was not unreasonable for Lloyds to decline to proceed with the dispute further at the time that it did.

Lastly, I understand Mr K also has concerns with the way in which his payment dispute has been handled and the lack of communication. I have not seen any evidence which suggests Lloyds asked for an independent report and as such, I do not agree that Lloyds should pay Mr K what it cost for him to obtain this. I have also reviewed Mr K's other concerns about the handling and communication, and I can see that Lloyds did set up Mr K's complaint under his wife's account rather than his. Although this was an error, this was rectified shortly after Mr K flagged it. I have reviewed the rest of the claim history and do not find anything else which would warrant an award to Mr K on this occasion.

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 Mr K to accept or reject my decision before 28 July 2025.

Vanisha Patel
Ombudsman