

The complaint

Mr M complains that holiday accommodation was not of a satisfactory standard. Because he paid in part using his Lloyds Bank PLC credit card, he says that he has a claim against Lloyds in the same way as he has a claim against the supplier of the accommodation.

What happened

In January 2023 Mr M booked a holiday villa for eight people from 28 October to 6 November 2023. He paid a 25% deposit using a credit card issued by a different bank, which I'll call "C". He paid the balance of just over £1,600 (after currency conversion) in August 2023, using his Lloyds credit card.

Mr M was disappointed by the condition of the villa. He says that paintwork was peeling, there was evidence of damp, furniture was broken, electrical sockets were broken and dangerous, and the pool was not cleaned. He says he had to contact the property manager on more than one occasion.

On his return to the UK, Mr M contacted the firm with which he had made the booking and which I'll refer to as "L". L said that the owner was responsible for the property and the services linked to it. L acted only as a booking agent, but it agreed to contact the owner on Mr M's behalf.

Following further exchanges, L offered Mr M €200 to resolve the matter. Mr M did not accept that offer and, in January 2024, made a claim to Lloyds under section 75 of the Consumer Credit Act 1974 ("section 75"). He said he was seeking a refund of 75% of the villa rental – coincidentally, roughly the amount he had paid using his Lloyds credit card.

Lloyds asked for more information, including a letter from C to say that it was not dealing with a similar claim. Mr M explained that C would not provide a letter as requested, but he confirmed that he had not made a section 75 claim to C.

Lloyds said that, without a letter from C, it was unable to consider Mr M's claim. It said too that, because of confidentiality issues, it could not contact C directly.

Lloyds later asked Mr M to provide photographic evidence of his claim. It also said that Mr M's contract was with a booking agent, not the supplier of the property, so section 75 did not apply. It later acknowledged that the request for evidence was inconsistent with its previously stated position, and it offered Mr M £40 in recognition of that. Mr M referred the matter to this service.

One of our investigators considered what had happened and issued a preliminary assessment of Mr M's complaint. He took the view that section 75 did not apply, as Mr M's contract for the provision of the villa was with its owner, not C. But he also thought that Lloyds should have investigated the section 75 claim, without requiring confirmation from C of its position. He recommended that Lloyds pay Mr M £100 (in addition to the £40 it had already paid).

Lloyds accepted the investigator's recommendation, but Mr M did not. He asked that an ombudsman review the case.

I did that and issued a provisional decision. I was broadly in agreement with the investigator's recommendation, but my reasons were a little different, and I thought the compensation he was proposing was too low. My provisional decision said:

One effect of section 75 is that, subject to certain conditions, an individual who uses a credit card to pay for goods or services and who has a claim for breach of contract or misrepresentation against the supplier of those goods or services has a like claim against the credit card provider.

In this case, Mr M used his credit card to pay L. L says that it provides a booking service. In summary, it arranges holiday accommodation, takes payment, and passes it to property owners (no doubt after deduction of its own fees). It also provides liaison services, but does not have a contract with clients such as Mr M for the provision of the accommodation. Its position is that Mr M had a separate contract with the property owner in respect of the accommodation.

The investigator accepted that that was the position and that, accordingly, Mr M did not have a claim against L and that section 75 did not apply.

Where accommodation is booked through a website such as L's, the usual position is that the customer has a contract with the booking agent to whom payment is made and a separate contract with the owner or manager of the accommodation. The booking agent is not responsible for the condition of the property.

That arrangement is very often made clear in the booking conditions. I have therefore considered the terms provided in this case – referred to as "Terms and Conditions of Hire". They do not expressly refer to a separate contract with the owner, and nor do they say that L is responsible only for the booking. And, whilst there are references to the owner, I don't believe it is made clear that the owner is not L or an agent of L. I believe also that some of the terms are consistent only with the contract being for the rental itself. For example:

- The terms are called "Terms and Conditions of Hire" (not, for example, "Booking Conditions").*
- The hirer is responsible for any damage. That is a provision I would expect to be in a contract with the owner, not the booking agent.*
- There is a term about the use of the pool. Again, how the pool is used is a matter between the customer and the owner.*
- The terms seek to exclude liability for accident or injury.*
- There is a reference to "our" property managers, but it is not clear whether those managers are engaged by L or by the property owner.*

Lloyds has also referred to L's website, which includes the following statement:

"We provide a first class booking service to clients and liaise with villa owners directly.

"We liaise with locally Villa Managers, allowing you to sit back and relax, safe in the knowledge that assistance and advice is always close at hand should you require it during your stay."

Statements on L's website do not, however, form part of Mr M's contract with it. In any event, although the statement quoted refers only to a booking service, I don't believe it makes clear that L is not responsible for the quality of the accommodation.

In the circumstances, I think it is far from clear that L was not responsible for the accommodation that was provided.

Mr M has described the issues and concerns he had with the property, and I note that he contacted L as soon as he returned from his holiday. I accept too that he contacted the property managers while he was on holiday, and that steps were taken at the time to try to address the issues he had raised.

However, the evidence about the condition of the villa is, in effect, limited to Mr M's own statements. I have not, for example, seen any photographs of the issues he raised or comments about the substance of his concerns from the owner, the managers, or L. I do not believe therefore that I can fairly conclude – at least on the basis of the evidence I have seen to date – that the accommodation was not of the standard agreed or that compensation is merited or appropriate.

It is not for me to say whether Mr M does in fact have a claim against L. Nor is it for me to decide whether he has a claim against Lloyds under section 75. What I must do is decide what I consider to be a fair resolution of Mr M's complaint about Lloyds' decision to decline his claim. In the circumstances, I think it was reasonable of the bank to decline the section 75 claim, albeit for different reasons.

I turn then to Lloyds' handling of Mr M's section 75 claim.

Where section 75 applies, the debtor (here, Mr M) can bring a claim against any relevant creditor. Where there is more than one creditor (because, for example, a purchase is split over more than one credit card, or a deposit is paid before a loan is taken out), the debtor can bring the same claim against any or all of the creditors. The amount of any claim is the same as any claim against the supplier, and is not limited to the amount paid with the credit.

Where a claim is made against more than one party (for example, against the supplier and a creditor), it would of course not be fair for the customer to make a double recovery. It was therefore perfectly reasonable for Lloyds to ask about any other claims which Mr M might have made. But what it actually said was:

"To review your claim, we would require to see a written stance from [C]. Without this information we cannot review your claim further."

That statement was both misleading and unhelpful. The use of the word "cannot" suggests a legal or practical impediment, when in fact the decision not to consider the claim at all was the bank's. In my view Lloyds should have addressed the claim when it was made. It had no reason to think that Mr M was being dishonest when he explained the position with C. And it could have addressed the issue of double recovery once it had assessed the claim.

In my view, Lloyds' approach here created delays and additional inconvenience for Mr M. I note that he says he spent a significant amount of time trying, unsuccessfully, to obtain a letter from C. I believe he should receive some compensation for that, and that £200 would be appropriate (in addition to the £40 Lloyds has already paid him).

Lloyds accepted my provisional decision, but Mr M did not. He said that, since I had found the necessary relationships were in place for section 75 to apply, I should find in his favour. The investigator explained that Mr M would still need to provide evidence of the condition of the holiday accommodation, and that he had not done that.

Mr M contacted the managers of the accommodation at the time, seeking their assistance in providing such evidence. He has not, however, been able to obtain anything more from them. He said however that the suggested compensation of £200 was insufficient, given that Lloyds had not properly understood the law.

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 explained in my provisional decision that I thought Lloyds had not approached Mr M's claim fairly. It had wrongly said that it could not look at the claim without a letter from C. That gave the impression that it was a legal requirement, whereas in fact it appears it was the bank's policy – which in this case operated unfairly for Mr M. I did therefore consider that issue in my provisional decision.

As far as the involvement of L is concerned, it was L which said it was not responsible for the quality of accommodation. Lloyds' reasons for not accepting the section 75 claim were different, at least when the claim was first made. It was not until later that it adopted L's argument about who was responsible for the condition of the accommodation.

But, again, I addressed L's and the bank's position in my provisional decision, concluding that it was certainly arguable that it was responsible for accommodation, and not just for processing the booking. That is, my provisional decision took into account what Lloyds had said on that issue. I thought the position was less straightforward than the bank had suggested and so went on to consider whether there was sufficient evidence of a breach of contract.

Mr M has suggested that my finding is that he does have a valid section 75 claim against Lloyds and he says that the bank should therefore take up the question of quantum with him. I am afraid that is a misunderstanding of my provisional findings. I considered the bank's response to his claim as a whole – including whether it should have met the claim. I concluded that it was fair of the bank to decline the section 75 claim, albeit for reasons which were different from those on which it had relied.

My final decision

For these reasons, my final decision is that, to resolve Mr M's complaint in full, Lloyds Bank PLC should pay him £200.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 27 March 2025.

Mike Ingram
Ombudsman