

The complaint

Mrs B complains that The Co-operative Bank Plc won't meet a claim under section 75 of the Consumer Credit Act 1974 ("section 75"). She has been represented by her husband, Mr B, in bringing this complaint, so where I refer to her submissions, I include those made on her behalf.

What happened

In June 2022 Mr B contacted a company, which I'll call "C", about an issue with his car's clutch. C is an online marketplace through which customers can engage independent mobile mechanics. Mr B had previously had some work done on the clutch cable, but this had not resolved the problem.

Mr B completed C's online form, indicating that he needed a replacement clutch. He also indicated on the form that he was "not sure" if this was the work that was needed, but he also declined C's offer of a full diagnosis.

C put Mr B in touch with a mechanic, "M", who carried out the clutch replacement work. Mr B says that, having initially indicated that the clutch did need replacing, C said in the course of the work that it appeared to be in good condition. He completed the work in any event.

The cost of the work was £554.55, which Mr B paid using Mrs B's credit card account, on which he is an additional card holder.

After the work was completed, Mr B identified that it had not resolved the problem. After further investigation, M identified that the clutch cable needed replacing. M carried out that further work at a cost of £40. That resolved the issue, albeit after some delay.

Mr B then complained that the replacement clutch had been unnecessary. The work had not therefore been carried out to a satisfactory standard and he should receive a refund. Neither C nor M agreed, so Mr B referred the matter to this service.

Initially, our investigator recommended that the complaint be upheld. When however Co-op Bank pointed out that the car had been successfully repaired (following the replacement of the clutch cable), he changed his view. Mr B did not accept the revised view and asked that an ombudsman review the case.

I did that and issued a provisional decision in which I said:

The complaint here is that the bank did not agree to meet a claim under section 75. It says:

75 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.

...

A “debtor under a debtor-creditor-supplier agreement” involves three parties: a debtor or borrower, which includes a debtor under a credit card agreement; a supplier of goods or services, or both; and a creditor or lender, which can include a credit card provider.

I must therefore consider the position of the parties in this case.

The [“creditor”] was clearly the bank, since it issued the credit card by which the payment was made.

Although Mr B’s initial contact was with C, I believe that the supplier here was M. C says, and I accept, that it acts as an introducer only and that the customer’s contract is with the mechanic whom C introduces to them. And I note that the invoice for the replacement clutch was produced by C on behalf of M, and the credit card payment was made to M.

As I have indicated, Mr B is an additional card holder on Mrs B’s card account. That means that he can use the account, but he is not liable to make payments of sums due on it; only Mrs B is. It follows that the “debtor” here is Mrs B. (That is why the complaint is brought in her name.)

Section 75 applies only if the debtor has a contractual claim against the supplier. In this case, however, I don’t believe that Mrs B had a contractual relationship with M (or indeed with C). All the dealings in this case were between Mr B and either M or C. Mrs B was not involved at all, save that her account was used to make payment.

It follows therefore that section 75 cannot apply in this case, since the debtor (Mrs B) did not enter into a contract with the supplier and cannot therefore have a contractual claim against it.

In the light of my findings about the possible application of section 75, I do not need to make any further findings on the issue of whether there was a breach of contract in this case.

For the sake of completeness, though, it does appear to me that the bank’s conclusion that there was no breach of contract here was reasonable and that it was therefore reasonable too not to uphold the section 75 claim. So, even if I were to reach a different conclusion on the application of section 75, I would still not uphold the complaint.

I make the following brief comments:

- Mr B did not engage M (or C) to carry out a full diagnostic test. Indeed, he says that he decided against that, partly on the grounds of cost.*
- M’s obligation was to carry out the work he was contracted to do with reasonable care and skill. I do not believe that required M to assess whether the work was necessary.*
- There is no suggestion that the clutch replacement was not carried out to a satisfactory standard.*
- M’s obligation was to replace the clutch. It was not to ensure that the clutch system as a whole would be operating following the replacement.*
- There was no guarantee that the work which M agreed to carry out would resolve the problem with the car.*

Mrs B did not accept my provisional conclusions. Mr B said on her behalf (and in summary):

- He and Mrs B own the car jointly, so she benefited from the contract for the repair work. The bank agreed that section 75 could apply in this case.*

- The work was not done with reasonable care and skill, because the wrong part was replaced.
- M did not have any problem with providing a refund, but only C could issue one.
- He made it clear that he did not know what work was needed on the car, but, as a result of earlier experiences, he did not want to pay for a full diagnosis of the problem.

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 note what Mrs B says about the application of section 75 where payment is made by an additional cardholder. I accept that the car in this case was a family car, so both Mr and Mrs B would benefit from a successful repair. However, the fact that a person benefits from a contract does not mean that they become a party to it. It can be a factor in deciding who is a party to a contract, but it is not the only factor and is not, of itself, determinative of the issue.

In this case, all the negotiations were with Mr B and all the documentation was in his name. So I remain of the view that M's contract was with Mr B alone and that section 75 does not apply.

But, even if I were to reach a different view on that point, I have not changed my findings on whether M carried out the work which was agreed. M was asked to replace the clutch, not to diagnose what was wrong or to ensure that the clutch system as a whole was working. That work was carried out to a satisfactory standard.

I note too that Mr B says that M agreed a refund was due. I believe however that there may have been a misunderstanding about the position. I do not know what arrangements M had with C in such cases, but any refund would have had to be initiated by M, not C, since it was M who took the payment.

My final decision

For these reasons, my final decision is that I do not uphold Mrs B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 19 June 2025.

Mike Ingram
Ombudsman