

The complaint

Mr D complains that NewDay Ltd will not meet his claim following the installation of a bathroom at his home and paid for in part by credit card. NewDay trades in this case under its Marbles brand.

What happened

In November 2023 Mr D engaged a company, which I'll call "A", to supply and install a new bathroom. Mr D says that the work was not completed. Specifically, A did not initially paint the bathroom ceiling. And, when it was painted, the work was not completed to a satisfactory standard.

Mr D made a claim to Marbles for a refund. He said that services had been paid for but not provided. Marbles contacted A for its comments. A defended the claim, saying that painting the ceiling had not been included in the original contract for the work but that it had been done as a gesture of goodwill.

Marbles, having reviewed the original quote for the bathroom work, concluded that it should not pursue the matter any further. It took the view that the painting of the ceiling had not been included in the original quote and so there were no grounds on which Mr D could claim a refund.

Mr D referred the matter to this service. In the course of our consideration of it, Mr D drew our investigator's attention to the fact that the quote also said that the fittings (taps, shower head and radiator) would be chrome, but that black fittings had been installed instead.

Our investigator considered what had happened and issued an initial assessment of the case. She agreed that painting the ceiling had not formed part of the initial contract and that it had been reasonable of Marbles not to pursue that aspect of the matter any further.

However, the investigator also noted that Marbles had not considered whether Mr D might have a claim under section 75 of the Consumer Credit Act 1974 ("section 75"). She thought that it should have done so and that, if it had, it would have concluded that the fittings supplied were not in accordance with the contract. She recommended that Marbles meet the cost of rectifying matters.

Marbles did not accept the investigator's recommendations. It said that Mr D had not requested that it consider a section 75 claim and that it was unfair that the investigator had made a recommendation on the assumption that he had. Marbles asked that an ombudsman review the case

I did that and, because I was minded to reach a different conclusion from that reached by the investigator, issued a provisional decision, in which I said:

Where goods or services are paid for with a debit or credit card and a dispute arises, it is sometimes possible to resolve that dispute through the chargeback process. Chargeback is a scheme run by the card schemes (usually Visa or Mastercard). A card issuer (here,

Marbles) raises a claim through the scheme against the merchant's provider of card facilities. That provider will then consider whether the claim meets the relevant criteria for chargeback (if necessary, seeking evidence from the merchant) before responding to the claim. Where necessary, the scheme provides for arbitration between the financial businesses.

Chargeback is primarily a scheme for resolving disputes about payment settlements – including, for example, where goods or services have been paid for but not supplied. It can therefore have the effect in some cases of resolving disputes between merchants and consumers, but it is not always an appropriate or effective mechanism for achieving that aim.

There is no legal or regulatory obligation on a card issuer to pursue a chargeback claim, but this service takes the view that they should do so where there is a reasonable prospect of success.

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. The necessary relationships between Marbles, A and Mr D are present in this case, and the transaction falls within the relevant financial parameters.

I appreciate that Marbles takes the view that it need not have considered a section 75 claim, because Mr D had not raised one. But I do not believe that should prevent it from considering what the outcome might be, based on the evidence it has. Apart from anything else, doing so might assist Mr D in deciding whether to pursue the claim and might provide guidance in how to do so. I have therefore considered both chargeback and section 75.

Mr D's underlying dispute here covers two aspects of the work done – the ceiling, and the taps and other fittings. In both cases, the issue I need to consider (under chargeback and under section 75) is whether A supplied what was agreed to be supplied and whether it did so to a satisfactory standard. I'll discuss each in turn.

The specification for the work recorded that A was to remove the old bathroom and then supply and install a new toilet, washbasin and vanity unit, shower and tray, shower screen, and towel radiator. Wall and floor tiles were also to be fitted and grouted.

There was no mention in the specification of any painting. The photographs of the completed bathroom indicate that the walls are tiled from floor to ceiling, and that the only painted surface is therefore the ceiling.

In the circumstances, I am not persuaded that it was part of the initial contract that the ceiling be painted. If it was later agreed that A would paint the ceiling, it does not appear that the work was financed by the credit card payment. So, even if the work was not satisfactory (as Mr D says), Marbles cannot properly be held responsible.

I turn then to the fittings. The work specification says they should be chrome. The pictures of the bathroom show they are black. To that extent, they do not conform with the original contract. However, it is not unusual for details such finish to be changed in the course of building work. I think there is evidence that that is what happened here. I make the following observations:

- It would have been obvious that black fittings had been used, probably well before completion of the work.*
- Mr D has provided screenshots of his exchanges with A about the ceiling. There is no mention of the fittings being black rather than chrome.*

- *Mr D did not mention the issue when he first referred the matter to Marbles or to this service.*
- *I note that the shower screen, shower tray skirt, drawer handles, pipework boxing, and tile edging are all black. That suggests an agreed change in the overall look of the bathroom – not an error in installing some fittings.*

In my view, I think it's more likely than not that Mr D and A decided at some point that the chrome fittings originally specified would be substituted for black ones.

It is not for me to say whether Mr D does in fact have a claim against A or whether he has a claim against Marbles under section 75 or otherwise. What I must do is decide what I consider to be a fair resolution of Mr D's complaint about Marbles' handling of his refund claim. In my view, it acted fairly in declining the claim.

Mr D did not accept my provisional findings. He noted in particular that the original quote included altering pipework and the soil stack for a new corner toilet. I had not commented on that issue in my provisional 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, however, I have not changed my view from that which I set out in my provisional decision.

For the reasons I indicated in my provisional decision, I do not believe that any painting was included in the original contract. If it was later agreed that A would paint the bathroom ceiling and if that was not done to a satisfactory standard, that work was not financed by the payment made with Mr D's Marbles credit card. It was a separate arrangement for which Marbles cannot properly be held responsible.

I noted in my provisional decision that the taps and other fittings were black, even though the original quote had specified chrome fittings. I made a finding that it was likely in my view that Mr D had decided at some point that he wanted black fittings, rather than chrome, as part of a change in the overall look of the bathroom. I note that Mr D has not disputed my findings on that point or sought to explain why he did not raise the use of the "wrong" fittings with A at the time.

I make a similar observation in respect of the toilet. The original quote refers to changing pipework to accommodate a corner toilet. But the photographs of the bathroom before and after the work was completed show the new toilet in the same location as the old one. There is however no mention of that in the exchanges between Mr D and A about the ceiling.

If the toilet had been fitted in the wrong place without any agreement about changes, it would have been obvious at the time – and well before the work was completed. But there is no evidence that Mr D mentioned that to A at the time. Nor is there any evidence that a different price was agreed. I think it likely therefore that Mr D agreed with A that the position of the toilet would remain unchanged – possibly because the location of the pipework made moving it difficult or impossible.

Mr D has noted that the changes to the fittings and to the location of the toilet mean that the invoice does not match the work done. I am satisfied however that the changes were agreed at the time. If Mr D wants a revised invoice, it is open to him to ask A to provide one, but it does not change my view about his complaint about Marbles.

My final decision

For these reasons my final decision is that I do not uphold Mr D's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 8 July 2025.

Mike Ingram
Ombudsman