

## **The complaint**

Mr C is unhappy with how MBNA Limited (“MBNA”) handled his claim for a refund.

## **What happened**

Mr C purchased golf clubs from a supplier I shall call “G” in 2021. He says he discovered at the start of 2024, when he received findings from a custom golfing fitter I shall call “Q”, that they hadn’t been made to the original required specifications. Q subsequently rectified the issues.

Mr C then contacted G regarding his original purchase stating his clubs hadn’t been made to the required measurements and that his golfing enjoyment had been negatively impacted as a result. G said in response that the golf club manufacturer (which I shall refer to as “S”) make their clubs to a very high level of accuracy. In addition two years had elapsed and as Q had adjusted the clubs during this period, they wouldn’t be able to do anything further.

As Mr C was dissatisfied with this response he contacted MBNA to raise a Section 75 (S75) claim under the Consumer Credit Act 1974 (CCA).

MBNA considered Mr C’s complaint and felt there was insufficient evidence to show G had breached their contract with him. They said there wasn’t enough evidence to show the golf clubs weren’t of the correct measurements at the point of sale due to the time elapsed and subsequent alterations.

Mr C didn’t accept this and felt Q’s report was sufficient evidence to show that his golf clubs weren’t as expected when purchased in 2021. He therefore brought his complaint to this service for further consideration.

Our investigator reviewed Mr C’s complaint and reached the same conclusion as MBNA. He also noted that prior to Q’s inspection of the clubs Mr C had his club grips changed at some point within the prior two years which would’ve also altered their length. This was one of the specifications that Mr C felt G hadn’t been complied with at sale.

Mr C didn’t agree that a change in the club grips would alter their length and remained of the view that Q’s report was sufficient to show that his clubs hadn’t initially been made to the contractual requirements. He therefore asked for an ombudsman to provide a final decision on the matter.

## **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've read and considered the evidence submitted by the parties but won't comment on it all – only the matters I consider to be central to this complaint. This isn't intended as a discourtesy but reflects my role in resolving disputes informally.

It's important to note that MBNA aren't the provider of the services here – so in deciding what is fair and reasonable, I'm looking at their particular role as a provider of financial services. In doing so I note that because Mr C paid for this transaction using his credit card, a S75 claim could possibly help him. So in deciding what is fair and reasonable I've focussed on this.

I must note here that MBNA wouldn't have been able to consider a chargeback claim against G due to the time elapsed. There are certain time limits within which a chargeback claim must be raised under the card issuer rules. These say that a chargeback must be initiated within 120 days from when the transaction occurred or 120 days from the last date the cardholder was expected to receive the merchandise or service. As substantially more time had elapsed here a chargeback wouldn't have been possible.

## **S75**

S75 provides that in certain circumstances the borrower under a credit agreement has an equal right to claim against the credit provider if there is either a breach of contract or misrepresentation by the supplier of goods and services.

S75 has certain technical requirements for there to be a valid claim. One of these are certain financial limits and Mr C would've needed to make a transaction with a cash price of over £100 but no more than £30,000.

Regarding the original purchase Mr C has provided a receipt from September 2021 showing a credit card payment of £1680.00 for a variety of golfing equipment. There are two items on there which are less than £100 and therefore wouldn't be within the financial limits as required by S75, however the other items would be.

Mr C's complaint form does say this was on his MBNA credit card and this isn't a matter that is disputed by MBNA in turn. I note Mr C has also provided other receipts to evidence consequential losses of the cost of Q's report as well as costs to make subsequent alterations.

However after reviewing the relevant evidence I don't think MBNA incorrectly declined Mr C's claim. In considering how MBNA responded to Mr C's claim, I've gone on to consider if there is a likely breach of contract or misrepresentation by the supplier which MBNA is responsible for putting right.

Regarding this, I don't think the focus of Mr C's claim is misrepresentation – but breach of contract relating to the quality of the goods. So I don't think it necessary to consider misrepresentation in any depth here.

Mr C has purchased the goods from G who is a supplier. The law implies certain terms into a contract of sale in these circumstances. In particular, the Consumer Rights Act 2015 (CRA) implies certain terms into the contract regarding goods supplied being of a satisfactory quality. The CRA says aspects of the quality of goods and whether they are satisfactory includes their general state and condition alongside other things such as their fitness for purpose as well as durability. In this case Mr C's complaint is about whether these clubs were made to his specifications and were therefore fit for his requirements.

Mr C has said that Q found the clubs were shorter than the length ordered, they weren't the required degree upright and in addition the loft on the clubs were inconsistent. He says this meant the clubs weren't to the required order and so he wished to be refunded and compensated for the impact this had on him in the previous years.

I've reviewed Q's correspondence to Mr C and note they also rectified these issues for him. This meant however that if these issues had previously existed as Q had said, they could no longer be evidenced beyond these findings.

I see G raised this with Mr C and that they'd have expected the clubs to have been sent back to them in the first instance for inspection. They confirmed that if there had been any issues with the measurements found, they would've been rectified then.

I don't think G's position is unreasonable and I also note that the club manufacturer S also quoted their margins of accuracy to be to 0.01 degrees on supplied irons. This suggests to me that it was unlikely the golf clubs wouldn't have been to requirements. Still it would've been important for these to be returned to G prior to any further adjustments so that any faults could be evidenced.

I've reviewed G's website for their terms and conditions noting these may have changed since the point of sale. They do mention custom fittings but there aren't any terms covering possible subsequent issues with these clubs. G has confirmed however that the golf clubs came with a 12 month guarantee so Mr C could've returned them during this time if he had any issues. In addition, G felt they could've still asked S to inspect the clubs outside this timeframe – so there was ample opportunity to have had this issue addressed prior.

There is also the issue of the grip change that occurred after purchase. I appreciate that Mr C doesn't agree that this would've been responsible for the change in length. I'm not able to comment on this and the resultant impact but I consider that any alterations to the golf clubs after purchase would've made it difficult for prior issues to be identified. And of course as Q has altered the clubs again it wouldn't be possible to evidence the specification of the clubs at the point of sale.

With all of this in mind, and while I appreciate the correspondence from Q as well as Mr C's testimony, I've insufficient evidence he was supplied with goods which weren't to the required measurements and there was therefore a breach of contract. I also consider it reasonable for Mr C to have noted any issues sooner and raised this with G if he felt the clubs weren't as expected.

Mr C has said he couldn't have known of these issues as an amateur golfer and had factored this into his own abilities rather than the clubs themselves. I think it would be reasonable to consider he'd have some idea the clubs weren't conforming if it impacted his performance to this degree.

### **My final decision**

For the reasons above, I don't uphold this complaint.

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

Viral Patel  
**Ombudsman**