DRN-5816194

The complaint

Ms T complains that Bank of Scotland plc trading as Halifax has treated her unfairly in relation to its obligations with regard to a payment she made using her credit card.

What happened

In March 2024, Ms T made a payment of £6,727.74 to a merchant, who I'll call C. The payment was made in relation to the supply of materials for the fitting of new flooring. The quote was given and paid for in full following a surveyor from C having attended and reviewed Ms T's property. The fitting of the flooring was to be done by an independent fitter, recommended by C. The quote contained a charge of £778.29 for 40 units of smoothing compound.

Once the fitter arrived at Ms T's property, he said the smoothing compound supplied would cover a 3mm layer and was insufficient. He needed a 10mm layer of compound to complete the works and quoted an additional £3,200 for the extra compound. In an attempt to mitigate the consequences of this, Ms T raised her concerns to C whilst attempting to source a solution to the issue.

In the end, Ms T asked her builder to supply the compound needed, resulting in a cost of £3,013.96. The fitter then laid the flooring supplied by C (although as I understand it, Ms T was unhappy with the quality of the fitting) and C provided a refund of the £778.29 already paid to it for compound.

Ms T asked C for a refund of £2,236.67. This amount represents the additional amount she paid to the builder for compound, beyond what she had expected to pay for this item following the quote from C's surveyor. She said her contract had been breached, and in the alternative, the sale had been misrepresented so she was entitled to recover her losses. Ms T said she had received other quotes for the flooring which were not as expensive as the total cost of what these works cost her, and she had relied on the original price quoted when choosing C.

As her negotiations with C were not fruitful, she raised a claim under Section 75 of the Consumer Credit Act 1974 (Section 75) to Halifax. Halifax on review of the claim, said as C refunded the amount she paid to it for compound, and Ms T chose to engage her own builder to level the floors so the work could be completed, her actions fell outside of its liability under Section 75.

Ms T brought her complaint to our service. Our investigator said C's terms and conditions make clear that there is a chance further work, or materials may be needed and so she didn't consider the terms to have been breached when the initial quoted compound amounts turned out to be insufficient. Ms T had the option at that time to cancel the contract, but she chose to proceed and so ended with a supply only contract. Our investigator also did not find evidence of a misrepresentation having been made as the contract was subject to change. When Ms T provided further information in response to the view, our investigator added that she had already received a refund of the compound cost from C and as she had only paid for what was needed from C, Halifax had not treated her unfairly when considering her claim.

Ms T was unhappy with this outcome and asked for an Ombudsman to consider her complaint. Ms T engaged the services of a lawyer who confirmed Ms T is entitled to claim damages as her contract was breached. Any action taken by Ms T was to mitigate damages caused by the breach. Ms T relied on the quote to make her decision to proceed with C and the error caused her to contract with C under a misrepresentation. It also said Ms T is entitled to claim for resulting damages and a refund of £,235.67 would restore her to the position she would have been in had C honoured the original agreement. 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.

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.

In this particular complaint there is no evidence that Halifax considered pursuing a chargeback. We would expect Halifax to have considered all available means of recovering the funds paid by Ms T which is why we have considered this. Our investigator was correct in saying that under the Mastercard rules, any chargeback dispute would have been outside of the time frames to be raised as per the scheme rules. As neither party is disputing this, I do not need to comment on this matter further except to say it was appropriate for Halifax to focus on Section 75 for this claim.

Section 75

Section 75 allows – in certain circumstances – for a creditor (Halifax) to be jointly and severally liable for any claim by the debtor (Ms T) of breach of contract or misrepresentation made by a supplier of goods or services.

Breach of contract

For this we turn to the terms and conditions of the sale for the supply of goods or services. These say:

"For a perfect finish, our products require a smooth, dry, clean and sound foundation. Our home consultant or estimator will not be able to ascertain if your subfloor requires extra preparatory work if your existing flooring is in situ at the time of the inspection. If we are arranging the installation of your flooring, our home consultant, estimator or the fitting partner

may advise that some remedial work is needed such as smoothing compound or ply boarding before your new floor can be fitted."

The issue here is that these terms absolve the home consultant from liability for quoting incorrectly due to the inability to gauge how much preparatory work the subfloor will require if there is existing flooring in the way at the time of assessment. However, Ms T's submissions suggest that there was no existing flooring in the way at the time of assessment – this had already been stripped, and underfloor heating had been installed. This meant the home consultant had a clear view and should have been in the position to provide a more accurate estimate of what work would need to be done on the subfloor, thus providing a more accurate quote for Ms T.

It is clear this did not happen, and the difference between a 3mm and a 10mm layer of compound is substantial. However, the terms also say:

"If, upon inspection by the fitting partner, more work is required and this is needed to ensure the flooring can be laid to the manufacturer's specification and this is declined by the customer, the fitting partner will leave the flooring in the customer's home. If the fitting service cannot be completed due to the works needed to correct subfloor issues, the customer is free to obtain quotations from other fitting contractors to install the flooring at their own risk. The contract with Carpetright is deemed to have been concluded upon acceptance of the flooring and will be considered 'supply only'."

It was then incumbent on Ms T to decide whether she wished to reject the flooring, accept the flooring and enter into a supply only contract, purchase more compound from C and continue, or source more compound elsewhere.

Ms T chose to accept the flooring and sourced more compound from her builder. There are many reasons why the home consultant could have made an error with the amount of compound they thought might be needed. The explanation provided by C was that the surveyor was told further work would be done to the floor before the fitter attended, and this had not happened – Ms T says this is incorrect. There is no evidence to support either of these claims. The issue with this is even if I were to accept the contract had been breached, I cannot see that Halifax should be held liable for the resulting damages Ms T is stating she incurred.

Ms T was originally quoted for 3mm of compound when she actually needed 10mm. In paying the additional £3,013.96 to her builder for this, she has paid for what she needed to get the subflooring in the right place for the flooring to be laid. C has already refunded the cost of the compound she paid to it, and in agreeing to hold Halifax liable for the additional compound, which was required and used, we would essentially be asking Halifax to pay for the cost of compound which would have always been needed to get this flooring down.

This service has a fair and reasonable remit, and I do not consider it to be fair and reasonable to ask Halifax to cover the cost of materials for subflooring which was required from the outset – even if Ms T didn't know that. It is difficult for me to agree that the cost of the additional compound is one of resulting or consequential damages, when it was essentially always needed. And for that reason, I do not find that Halifax needs to do anything further on this claim.

Misrepresentation

Ms T states that the quote provided induced her to enter the contract with C. She had received other quotes from different providers at a slightly higher cost. The lower amount quoted by C, was one she relied on when entering the contract.

I have not been provided with quotes from other providers showing that they had quoted 10mm of compound at a lower price than the amount which Ms T ended up paying in total for this work to be done. I have not asked Ms T for this evidence because she has said the other quotes were not as detailed. If they did not detail the amount of compound, we cannot be sure she was being quoted for 10mm of compound and that those contracts would not have ended up with Ms T being in the same position – that of having to source more compound after a fitter attended. And even if she were able to provide other quotes showing 10mm of compound quoted, I would question why she did not recognise that C had quoted for less compound and this should have put her on notice.

Overall, there is not enough evidence to support a claim for misrepresentation in a situation where it is common for a fitter to review the exact flooring selected, the manufacturers recommendation for subflooring for optimum performance of the flooring and make adjustments to orders as necessary to ensure that the job is done well. The terms do indicate the fitter may need to make changes to the order amounts and that is enough for the customer to be on notice about this matter. I therefore do not find that Halifax should be held liable for the additional costs incurred by Ms T through the connected lender liability afforded by Section 75.

Lastly, Ms T had mentioned issues with the work done by the fitter. As she has said she is taking this up directly with the fitter as she had a separate contract with them, I have not considered this matter further.

My final decision

My final decision is that I do not uphold Ms T's complaint against Bank of Scotland plc trading as Halifax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms T to accept or reject my decision before 23 October 2025.

Vanisha Patel
Ombudsman