

The complaint

Mr G complains Barclays Bank UK PLC (the “Lender”) has failed to honour a claim under Section 75 of the Consumer Credit Act 1974 (the “CCA”).

Mr G is represented in his complaint by a professional representative (“PR”).

What happened

This complaint relates to a timeshare purchase made by Mr G from a timeshare provider (the “Supplier”) on 10 May 2019. PR says Mr G made a number of purchases from the Supplier over the years, of which this was one. I’ve outlined the basic details below:

- The purchase made on 19 May 2019 (the “Time of Sale”) was of points in a holiday club (a type of timeshare) operated by the Supplier. Mr G bought 5,000 points in the holiday club, which could be used to book holiday accommodation (the “Purchase Agreement”). The purchase cost £7,450.
- The Purchase Agreement said that payments towards it were to be made in favour of a trustee. Mr G used his Barclays credit card to pay for the purchase. The transaction appeared on his credit card statement as “[Trustee Name] [Supplier Name], Douglas”.
- In June 2023, through PR, Mr G made a Section 75 claim to the Lender, seeking to find it responsible for the Supplier having misrepresented the timeshare and having pressured Mr G into buying it.

The Lender rejected the claim, saying there was a lack of evidence of misrepresentation and that it was not liable under Section 75 for any pressure put on Mr G by the Supplier. The matter was then referred to the Financial Ombudsman Service, at which point the Lender treated the claim as a complaint but stood by the conclusions it had already reached.

The case was then assessed by an Investigator who, having considered the information on file, rejected the complaint because the technical conditions for Mr G to make a Section 75 claim against the Lender were not in place. Specifically, there was not a valid debtor-creditor-supplier (“DCS”) agreement because Mr G’s payment had gone to the trustee rather than the Supplier. Our Investigator noted the High Court case of *Steiner v. National Westminster Bank Plc [2022] EWHC 2519 (KB)* (“Steiner”) supported this conclusion.

PR, on Mr G’s behalf, disagreed with the Investigator’s assessment and asked for an Ombudsman’s decision. I think I could summarise PR’s arguments against our Investigator’s conclusions as follows:

- Our Investigator had failed to look at the factual merits of the complaint i.e. the underlying claims relating to misrepresentation.
- The Purchase Agreement said that payments were to be made in favour of “[Trustee Name] – [Supplier Name]”. There was insufficient evidence that the payee was not

the same legal entity as the Supplier. The payment might well have gone to the Supplier directly.

- While it acknowledged the Steiner case, it was unclear that the specific arrangements in this case were the same as those considered in Steiner.
- Even if it is the case that the payment went to a trustee first rather than to the Supplier directly, the definition of “arrangements” under the CCA is broad enough to capture scenarios like this and not invalidate the DCS agreement. PR cited the cases of *Asset Land Investment plc v The Financial Conduct Authority [2016] UKSC 17* and *Bank of Scotland v Alfred Truman [2005] EWHC 583 (QB)* in support of this point.
- The Investigator had taken an overly legalistic and technical approach to the matter of the DCS agreement, which was not in the spirit of the consumer protection purpose of the CCA.
- Mr G had not been told that his payment would be made to anyone other than the Supplier, and it was his understanding that this was who his payment was being made to. He hadn't given authority for payment to be taken by anyone else.

The case 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.

Having done so, I don't think it should be upheld.

In order for a claimant to be able to make a successful claim under Section 75 of the CCA, there needs to be what I will refer to as a valid DCS agreement in place. I agree with our Investigator's conclusion that there was no valid DCS agreement in place in this case, because Mr G's credit card payment was not made directly to the Supplier, and instead went via a trustee company.

The relevant legal provisions are as follows:

s.75(1) CCA states:

“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.”

s.12(b) CCA states that a DCS agreement is a regulated consumer credit agreement being:

“a restricted use credit agreement which falls within section 11(1)(b) and is made by the creditor under pre-existing arrangements, or in contemplation of future arrangements, between himself and the supplier”

An agreement is a s.11(1)(b) restricted-use credit agreement if it is a regulated CCA agreement used *“to finance a transaction between the debtor and a person (the “supplier”) other than the creditor”*.

What all of this means is that for a valid claim under Section 75 of the CCA, there needs to

be a valid DCS agreement in place. In practical terms it means Mr G (the debtor) needs to have used his Barclays (the creditor) credit card to pay the Supplier (the supplier). On the face of it, this didn't happen in Mr G's case because the Supplier was not paid directly using the credit card. Rather, the payment was made to the trustee company.

In some circumstances a valid DCS agreement can still be in place, even if the supplier is not paid directly using a credit card. The law in this area was clarified by the judgment in Steiner. Steiner considered whether there was a valid DCS agreement in circumstances where a trustee company (the same trustee company as in Mr G's case) took payment on a credit card in relation to the purchase of a timeshare from a different timeshare supplier. The court considered the arrangements between the parties and concluded that, as the payment to the Supplier was made outside of the credit card network, in that instance there was not a valid DCS agreement in place.

While I note PR's comments that they could be different, the circumstances in Mr G's case appear to me to be very similar to those in Steiner. The only significant difference is the identity of the timeshare supplier. The rest of the arrangements appear to be more or less the same, including the identity of the trustee company. And it certainly seems to be the case that the trustee company was taking card payments on behalf of the Supplier, which I think is the key issue as far as the DCS agreement is concerned.

PR has questioned whether the payment in this case truly did go to the trustee company. It has said it's possible it in fact went directly to the Supplier. While I think it's *possible* the payment went directly to the Supplier, I don't think it's *probable*, based on the available evidence and my experience of similar cases. I note that the transaction on the credit card statement indicates the location of the recipient was in Douglas, on the Isle of Man. The trustee's head office is in Douglas, whereas the Supplier is based elsewhere. On balance, I think the credit card payment was made to the trustee.

I've considered the argument raised by PR, along with the two other cases it has cited, on the matter of the consumer protection purpose of the CCA, and how broadly the concept of arrangements should be construed when deciding whether or not there is a valid DCS agreement in place for a given scenario. I note the High Court in Steiner considered the same arguments and the same cases, and did not find them persuasive. The judge noted that he did "...not derive much assistance from [the] judgment" in the case of Alfred Truman, noting that the judge in that case had "left open the question where the line was to be drawn".

So while I acknowledge PR's point that the key issues are technical and legalistic, and that the CCA has a consumer protection purpose, I don't think the case law could be more clear on arrangements of *this* particular type.

Based on the judgment in Steiner, I think a court would come to a similar conclusion in Mr G's scenario and say that there was no valid DCS agreement in place and, in turn, no valid Section 75 claim as the Supplier was not paid under an agreement involving the card network, but through a third-party trustee. And while I have taken account of PR's arguments, I don't think they are a good reason for me to depart from what I think is the established legal position.

Finally, PR argues (in essence) that Mr G didn't authorise the payment of anyone other than the Supplier. While Mr G may have understood he was paying the Supplier, I don't think it would be reasonable to say that there was no authority for the card payment. All parties understood that the purpose of the payment was to pay for the Purchase Agreement, and that is what it did.

In light of the above, I find that there was not a valid DCS agreement in place for Mr G to make a claim against Barclays under Section 75 of the CCA in relation to his purchase from the Supplier. It follows that I don't think the bank, in declining his claim, acted unfairly or unreasonably. I'm unable to see any other reason why the bank should compensate Mr G.

Like our Investigator, I've not looked into the merits of the underlying claim for misrepresentation. There's nothing unusual about that – after all, the underlying merits of the claim are not relevant where, for technical reasons, the claim cannot be pursued successfully.

My final decision

For the reasons explained above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 12 December 2025.

Will Culley
Ombudsman