

The complaint

Mr G is unhappy Marks & Spencer Financial Services Plc trading as M&S Bank has rejected his claim for a refund for a pair of glasses.

What happened

Mr G ordered a pair of prescription glasses from an online supplier in August 2024, paying around £290 on his credit card. The online supplier said that in order to complete the order it needed Mr G to send his pupillary distance and heights measurement. It gave him the option to send some photos or an old pair of glasses. Mr G chose to send a pair of his existing glasses, which I'll call P1, but he asked the supplier to send these back to him. The supplier made the new glasses, which I'll call P2, and sent these to Mr G.

Mr G says the prescription in P2 isn't correct so he can't wear them. He also says he didn't receive P1 back from the online supplier – and that these were only a few months old and had cost him just under £550. Mr G complained to the supplier, who asked for exact details for the frames and lenses in P1, as well as an itemised invoice, so it could make a claim to the courier. Mr G didn't provide these details, saying the courier doesn't need them and asking the supplier to continue to make a claim. He said he would return P2 to the supplier once it had recovered and returned P1. The supplier said it wouldn't be able to continue the courier claim without this information.

In September 2024 Mr G raised a dispute with his credit card provider M&S Bank. It initially looked at raising a chargeback claim, but as Mr G wanted to claim for the cost of P1 as well as a refund for P2, it instead considered a claim under Section 75 of the Consumer Credit Act 1974 (S75 CCA). It asked Mr G to complete an online form and send supporting evidence for the claim. Mr G said he struggled with the form but provided the details and invoice for P1 in December.

M&S Bank went back to Mr G a few times over the following months, asking for more evidence to support the claim. Each time, Mr G said he felt he'd provided enough evidence. M&S Bank told Mr G the supplier had offered to refund him if he returned P2, and this was a fair remedy for the claim. It also said it needed a full copy of the contract between Mr G and the supplier as well as the terms and conditions, before it could agree there had been a breach of contract, or that Mr G should receive a refund for the cost of P1. M&S Bank gave Mr G its final answer on the claim and his complaint in June 2025.

Our Investigator didn't uphold the complaint. She said M&S Bank had fairly considered the S75 CCA claim as Mr G could only get a refund if he returned P2 to the supplier, and while M&S Bank hadn't considered a chargeback, it wasn't likely this would be successful for the same reason. She also said there wasn't sufficient evidence to show the supplier agreed to return P1 to Mr G in the terms of the contract. Mr G responded saying he would return P2 to the supplier for a refund but still wanted to claim the £550 value of P1. He repeated his doubts that the supplier needed more information to make a claim with the courier. As our Investigator didn't change her findings, Mr G asked for a final decision.

I issued a provisional decision, which said:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete or inconclusive (as some of it is here), I've reached my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in the light of the available evidence and the wider circumstances. Having done this, I think the complaint should be partially upheld – and I'll explain why.

Mr G has made several detailed points in his complaint. I've considered everything he's said and all the information on the file. But in my decision, I don't intend to refer to everything or address every point made. I mean no discourtesy by this, instead I will focus on what I see as being the key outstanding points following the Investigator's outcome, and the reasons for making my decision.

Our Investigator thought M&S Bank acted fairly by not raising a chargeback claim for Mr G's dispute. Neither party disagreed with this finding, and my own thoughts about this are broadly in line with those of the Investigator. Mr G would not have been able to claim back the cost of P1 through chargeback, and I think a chargeback would only have had a reasonable prospect of success for P2 if Mr G had returned them. So, I've focussed instead on M&S Bank's actions relating to the S75 CCA claim.

The outcome of the S75 CCA claim

Mr G paid for P2 using his credit card. M&S Bank is a different business to the supplier so I can't hold it responsible for everything that may have gone wrong. Instead, S75 CCA allows a borrower under a credit agreement to make a like-claim against the credit provider if there is either a breach of contract or misrepresentation by the supplier of the goods or services. There are certain conditions to be met for a valid claim to be considered, and I think they've been met here.

The Consumer Rights Act 2015 (CRA) also implies terms into the contract. This sets out that goods must be of satisfactory quality and as described, and that services are carried out with reasonable skill and care. This is relevant here, as Mr G would only be able to request a remedy under the CRA if there's been a breach of contract by the supplier.

Mr G says the prescription in P2 isn't correct – specifically, the height of the varifocals is wrong, so he can't see through them clearly. I think it's reasonable for M&S Bank to have asked Mr G to provide supporting evidence that there's a problem with P2 and show how he's tried to resolve the problem with the supplier. While Mr G sent some information, I can't see M&S Bank received conclusive evidence showing the supplier provided goods that were faulty or didn't conform to the contract. As the supporting evidence of a breach of contract by the supplier is lacking, I think M&S Bank acted fairly by rejecting Mr G's claim.

Despite this, the supplier agreed Mr G could return P2 for a refund if he wasn't happy. M&S Bank considered what a fair remedy would be in line with the CRA if Mr G was able to provide evidence of a breach of contract. It said the supplier's offer to refund Mr G for P2 if he returned the goods was fair, and I agree this is a reasonable approach, in line with the remedies offered by the CRA. So, even if there has been a breach of contract, it looks like the offer on the table (if still there) is fair.

I sympathise with Mr G saying he needs to have a pair of glasses, but I don't think M&S Bank is being unreasonable by agreeing Mr G needed to return P2 before he's able to ask for a refund. I'm aware Mr G says he now intends to return P2 to the supplier as it previously offered a refund outside the return period in the terms and conditions. It's possible the supplier and Mr G can resolve things this way.

If Mr G later gets further evidence he thinks shows the supplier didn't make P2 correctly or it doesn't refund him once he returns P2, and he can't resolve it directly with the supplier, he can then contact M&S Bank and allow it the chance to review his claim.

Can Mr G claim for consequential losses?

Mr G also asked M&S Bank to refund him approximately £550 for the cost of P1, which he says the supplier didn't return. M&S Bank declined, saying there wasn't sufficient evidence that this was part of the original contract, and the supplier could reasonably ask for more evidence to pursue a courier claim.

Part of the contract to create P2 involved Mr G taking steps to provide his prescription - he chose to do this by sending P1 to the supplier. While the terms of the supplier don't set out what would happen to the glasses sent for this purpose, Mr G asked the supplier to return P1 to him more than once before sending it. I can understand why M&S Bank has concerns here, as there aren't clear terms to show the supplier had agreed to return P1 as part of the ordering process. But as the supplier didn't disagree with Mr G's request, on balance I think it follows that it had an obligation to complete the services with reasonable skill and care, including returning P1.

However, there's a lot of unknown information in this complaint. I don't know exactly what happened when the supplier received P1. I think M&S Bank can reasonably assume the supplier did receive P1 as it was able to complete the order for P2, but there's a lack of evidence for what happened next. I don't know if the supplier tried to return P2 with P1 or separately and I don't know for certain that the supplier didn't include P1 in the parcel.

A key thing for me to consider is the way the supplier provided the contracted services to Mr G. On the face of it, there's insufficient evidence the supplier didn't make P2 with reasonable care and skill. It looks like it attempted to send P1 back with a well-known courier, and made reasonable enquiries when Mr G claimed P1 was missing. All in all, I think M&S Bank would have been fair to conclude the supplier carried out the services with reasonable care and skill.

I also don't have a clear breakdown for the invoice Mr G provided showing exactly what goods and possibly services the £550 claim was for - so it isn't certain this payment was only for P1. I can understand why the supplier asked for more information before continuing with the courier claim, and so I also think this suggests, on balance, it was acting reasonably.

It's clear there are challenges with the evidence M&S Bank received from both Mr G and the supplier, so I can understand why it wanted to be more certain about what happened and the losses Mr G was claiming for before agreeing to a refund. There's insufficient evidence to show the goods provided weren't of satisfactory quality or that the service elements of the contract weren't completed with reasonable care and skill. Therefore, on balance, I don't think there are grounds to direct M&S Bank to pay Mr G back for consequential losses.

Also, I think it's reasonable for consequential losses to be clearly evidenced, reasonably foreseeable and directly flowing from a breach of contract. I also think there needs to be sufficient evidence a customer has tried to mitigate the loss they faced – and as Mr G failed to respond to reasonable queries from the supplier I can't agree he did this. As the evidence here is lacking, I don't think M&S Bank has unfairly declined Mr G's claim to refund the cost of P1.

I appreciate Mr G is unhappy he's lost a relatively new pair of glasses, and this is understandable. My role here isn't to make a finding about the information the supplier is asking for – and I understand it may now be too late for the supplier to submit a claim to the courier. But this doesn't mean M&S Bank should reimburse him for the loss.

I would remind Mr G that our involvement, if he chooses not to accept the outcome of this final decision, doesn't prevent him from pursuing other ways of resolving the matter with the supplier.

Did M&S Bank handle the S75 CCA claim in a fair way?

As Mr G says he isn't happy with the way M&S Bank has treated him, I've also thought about the way it handled his claim.

I think M&S Bank could have handled the claim better at times. I can see Mr G first raised the dispute in September 2024 and received an outcome on the claim in June 2025, meaning it took M&S Bank around nine months to give him an answer.

While there isn't a set amount of time it should take a firm to resolve a S75 CCA claim, the financial regulator issued guidance about this in 'Finalised Guidance: Cancellations and refunds: helping consumers with rights and routes to refunds – April 2021'. This says card providers are expected to handle such claims "in a reasonable timescale" and should clearly explain the reasons for any delay. While I accept there were delays on both sides at times, I don't think nine months is a reasonable timescale to look at this claim, and I've not seen M&S Bank gave Mr G a clear explanation for the delay either.

I've also thought about the support M&S Bank gave Mr G. Mr G told M&S Bank he was struggling with its online form, and he said he'd sent attachments which it didn't receive. I would have expected M&S Bank to have supported Mr G more here, in line with its obligations under the Consumer Duty. For example, M&S Bank ought to have helped Mr G add his attachments or could have looked for the terms and conditions online when Mr G tried to send the link. If it had done this, I think it could have given its final answer on the claim sooner than it did.

I've carefully thought about the impact this had on Mr G. I understand it can be frustrating and inconvenient to raise a dispute, and it's likely Mr G was already unhappy with what had happened with the supplier. But I think M&S Bank could have done more to support Mr G and answer the claim in a reasonable timeframe - this in turn increased the frustration Mr G faced throughout the process. I've thought about the awards we make for trouble and upset, and the impact this likely had on Mr G, and I think M&S Bank should pay Mr G £100 to reflect the impact of its actions on him.

M&S Bank accepted my provisional decision and had nothing more to add. Mr G provided a copy of an email he sent the supplier, which included his prescription for P1. He also said he had told the supplier to continue with a postal claim and it hadn't done so – so he'd lost out. He said M&S Bank is jointly liable for this and as such needs to refund the cost of the missing P1 glasses.

As Mr G didn't agree, I've now made a final 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.

I don't intend to repeat the findings I already made in my provisional decision here – instead I will focus on the further comments provided by Mr G.

Mr G says he asked the supplier to continue with the postal claim without his prescription or a full invoice, but it didn't do this. I understand Mr G's frustration that the supplier didn't go ahead as he asked. But, as I set out above, M&S Bank found the supplier made reasonable enquiries to support him with the missing glasses.

I've also kept in mind the supplier said the postal claim would need evidence of the cost of the glasses and specifics about the frames and lenses. I've reviewed the emails Mr G has sent since my provisional decision, and while I can see he sent the prescription for P1 to the supplier, this didn't have the details of the frames and lenses making up the missing P1 glasses. The invoice Mr G later provided to M&S Bank also doesn't break down what he paid £550 for – for example, if this was just for P1 or included other services Mr G couldn't request a refund for. Overall, I don't think M&S Bank has treated Mr G unfairly when considering whether the supplier needed to do more to support him, based on the information Mr G provided to the supplier for its enquiries with the postal service.

I do sympathise with Mr G's situation here, as he says he's still missing P1. But I don't think his comments or the further information he sent change my findings on his case. As the parties also didn't comment further on my findings for the compensation award, I think M&S Bank should still pay Mr G £100 to reflect the impact its actions had on him, when it was supporting him with his claim.

My final decision

My final decision is that Marks & Spencer Financial Services Plc trading as M&S Bank must pay Mr G £100 for the reasons I've explained above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 3 February 2026.

Hannah Dunkley

Ombudsman