

The complaint

Mr S has complained about the way NewDay Ltd trading as Marbles ('Marbles') dealt with his claim for money back in relation to a purchase he made using his credit card.

What happened

In around March 2025 Mr S has said he purchased a car, from a business I'll call D, for around £5,000. The car was used; was around 14 years old and had covered around 365,000 miles. Mr S has said he paid £2,500 on his Marbles credit card, this amount appears to have been paid to a business I'll call V. He said he paid a further £1,000 via bank transfer and £1,620 on another credit card.

Mr S approached Marbles to make a claim under Section 75 ('S75') of the Consumer Credit Act 1974 ('CCA'). Mr S said that D told him the car had one owner and was HPI clear. However, a report from a company I'll call C showed that the car had more than one previous owner and sustained damage in around 2023. Therefore, Mr S believed D misrepresented the car, and a breach of contract had also occurred.

Marbles have said that there wasn't enough evidence to show that D misrepresented the car and didn't uphold Mr S' claim under S75 based on the evidence he was able to supply.

Mr S brought his complaint to our service and our investigator looked into things. He said that he didn't think there was evidence of a misrepresentation, or a breach of contract. He also didn't think a chargeback claim would have been successful. So, he wouldn't be asking Marbles to do anything further.

Mr S didn't agree, so the complaint was progressed to the next stage of our process, an ombudsman's decision.

I asked our investigator to send both parties an email setting out my initial position informally. In summary I said I couldn't seem to find a link between D and V. There didn't appear to be an association as defined in Section 184 ('S184') of the CCA. So, I thought it broke the debtor, creditor, supplier (DCS) agreement so to speak, meaning there wasn't a DCS agreement in place. Therefore, it appeared Mr S' S75 claim wasn't valid, and Marbles' ultimate answer was unfair.

I also said it wasn't clear if Marbles had considered a chargeback, but if it had it would have faced some issues when considering one. The first being that it appeared Mr S had paid V, however, was arguing D described the car incorrectly.

Mr S said the car was advertised as HPI clear, and one owner from new. As far as I could see Mr S hadn't provided evidence of an advertisement to either this service or Marbles. So, on the face of it there was insufficient evidence on this point.

I also stated previous damage, or the number of owners of a vehicle, didn't appear to be included in the list of conditions for a car to be classed as HPI clear. And I couldn't see that

any of the conditions on the list were flagged on C's report that Mr S had provided. So, it was arguable that the car was HPI clear.

I agreed C's report appeared to show that the car was previously damaged, but it didn't set out if the damage was repaired or not. As far as I could see Mr S hadn't argued that the car wasn't working as it should, or that the previous damage was causing the car to be defective now. Even if he was arguing this, there didn't appear to be sufficient evidence, such as an independent report, that the car was defective given its age, very high milage and the overall purchase price.

Given the above I thought it unlikely a claim would have succeeded as there wasn't enough evidence the car wasn't as described. And there wasn't enough evidence the car was defective, bearing in mind the price; age and high milage. So, I didn't think Marbles acted unfairly regarding the chargeback.

Marbles didn't respond, but Mr S did, in summary he said –

- D chose to use its sister company V's card machine in the transaction. The payment mismatch was caused by D, he followed the payment route they arranged, therefore the DCS agreement was intact.
- He could not be reasonably expected to provide evidence of the link between D and V; this was something Marbles should do.
- He maintained that D advertised the car as HPI clear and had one owner from new.
- That because Marbles didn't consider a chargeback, it had deprived him of an alternative remedy and caused financial detriment.

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.

S75

I can understand what Mr S is saying regarding evidence of the link between D and V. He's said that it's Marbles' responsibility to provide evidence of a link, but I don't think Marbles treated Mr S unfairly by not exploring this, given it would be for Mr S to prove he had a valid claim. Without sufficient evidence of the DCS agreement, it's difficult for me to find there are grounds to say the necessary conditions exist.

Here I've not been able to find that V is D's associate as determined by the CCA, neither have I been given strong evidence that D had an agreement with V regarding payment processing. So, I'm still of the opinion that there isn't a valid DCS agreement in place here, and I don't think there are grounds to say Marbles has to pay an amount under S75.

Chargeback

Mr S hasn't provided evidence of an advertisement from D setting out the car was HPI clear and had one owner from new. So, there is insufficient evidence on this point.

As I set out previously, I agree C's report appeared to show that the car was previously damaged, but it doesn't set out if the damage was repaired or not. Mr S hasn't argued that the car isn't working as it should, or that the previous damage is causing the car to be

defective now. Even if he was arguing this, there isn't sufficient evidence, such as an independent report, that the car is defective given its age, very high milage and the overall purchase price. Added to this is the fact that the car was sold as seen, and it had a discount applied to it.

Given the above I still think it unlikely a claim would have succeeded given there isn't clear evidence the car wasn't as described. And there isn't clear evidence the car was defective, bearing in mind the price; age; high milage; the discount applied and being sold as seen. And as I think it unlikely the claim would have succeeded, it wouldn't have been an alternative remedy for Mr S. Given this I can't see how he would have suffered a financial loss.

It's not clear if Marbles raised a chargeback or not. Marbles may have thought about raising one but decided not to because of the lack of clear evidence. Given my findings above, it follows, I don't think Marbles have acted unfairly regarding the chargeback.

Whilst I can understand why Mr S would've wanted an answer from Marbles a bit sooner, I don't think it was unfair for it to request supporting evidence. And based on the evidence supplied I don't think there was enough there for Marbles to uphold the claim through S75 or chargeback.

To conclude I don't think I've been provided with any new evidence or arguments that persuade me to depart from my initial position. I remain of the view, for the reasons I've already given, on the face of things I don't think Mr S has a valid S75 claim. Given this, it doesn't appear that Marbles' ultimate answer was unfair. I think it unlikely a chargeback would have succeeded, so I don't think Marbles acted unfairly regarding the chargeback. Therefore, I don't find I have grounds to direct Marbles to take further action.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 22 May 2026.

Helen Boulton-Agg
Ombudsman