

The complaint

Mr C complains about how Lloyds Bank PLC (“Lloyds”) handled a claim he made in relation to a transaction on his credit card.

What happened

Mr C purchased a car, through a company I’ll refer to as “S”, in March 2023. The cost of the car was £25,999. Mr C paid a deposit of £500 on his Lloyds credit card and he paid the remaining amount of £25,499 by debit card. At the time the car was purchased, it was around four years old and the mileage was around 65,750.

In around May 2023, Mr C complained to S and said in April 2023, he had to change the nearside back tyre due to the tread depth. He also said the car was pulling to the left, which resulted in heavy driving. Mr C said he was advised to take out a service plan with the manufacturer and this was recommended by his daughter. He said as part of this he was entitled to have a health check carried out on the car. When this took place, it found an oil leak and the turbo needed replacing. Mr C attempted to make a claim on the manufacturer’s five year warranty, but he was told that because the car hadn’t previously been serviced as required, the warranty was void. Mr C complained to S and said he wanted to reject the car. However, S only agreed to a repair. So, Mr C complained to Lloyds in June 2023 and said he wanted to reject the car.

Lloyds issued its response to Mr C’s complaint in July 2023. It apologised it didn’t call Mr C back as he had requested and it said it would be paying Mr C £50 for the upset and inconvenience caused. Lloyds said that it couldn’t review Mr C’s claim under a five year warranty as there was no evidence the car was sold with this. Lloyds said there was no evidence that S had breached its contract and so it couldn’t review the claim.

Shortly after this, Lloyds offered Mr C a full and final settlement of £3,432.36. It increased this offer by £100 for oil that was required to replace the turbo. Mr C accepted this. It made the offer as it said it was satisfied that the turbo charger would have been covered and that S had misrepresented the car warranty when selling the car.

In October 2023, Mr C contacted Lloyds and said he was unhappy with the outcome of his claim. Mr C said he wanted Lloyds to explain why it didn’t accept his right to reject the car or to allow him to exercise it now.

Lloyds issued its response to Mr C’s complaint and said Mr C had already accepted a resolution in full and final settlement of his complaint. So it said it couldn’t proceed further.

Unhappy, Mr C referred a complaint to this service. He said he wanted to reject the car.

Our investigator looked into the complaint and said she couldn’t see that the car was advertised with having a warranty in place. She said whilst Mr C had said he was aware that all [manufacturer name] cars came with a five year warranty, there was no supporting information to suggest that S told Mr C this. So, she didn’t think the warranty had been misrepresented.

Our investigator said Mr C didn’t have the right to reject as the first fault didn’t occur until after 30 days of the car being supplied to him and Mr C had repairs carried out independently without giving S or Lloyds an opportunity to take any action. He said Lloyds offer to put things right was fair, given the age and mileage of the car at the time of supply

and despite no information being provided to suggest the faults were present at the point of supply. He also said the tyres pulling to the side could have been caused after the car was supplied to Mr C and the brake replacement was a wear and tear item. He noted that S provided a 90 day warranty but Mr C didn't make any claims under this warranty and so, she didn't think that Lloyds should pay the cost of any diagnostics paid before Mr C accepted the settlement offer.

Mr C disagreed. He said the car had been off the road which resulted in him cancelling hospital appointments. He said that Lloyds had agreed that there had been a misrepresentation of the warranty and that as this had been shown, he should be entitled to reject the car and full compensation.

Our investigator said a resolution had been provided to Mr C and he had accepted this and so, Lloyds had met its obligations under s75. He said Mr C had the car repaired at a garage of Mr C's choice and the repair made the car of satisfactory quality. He said because of this, Mr C could no longer reject the car.

Mr C queried why Lloyds didn't accept his evidence first hand but then later accepted it, which prolonged the situation. He also asked why Lloyds didn't accept the email from S which confirmed that S had misrepresented the car warranty.

Our investigator said Lloyds received further information from S, which resulted in them changing their mind.

As Mr C remains in disagreement, the case has been passed to me to decide.

Since the complaint has been referred to this service, Mr C has sold the car and is no longer in possession of it. Mr C says he still has around £19,000 worth of debt for the car through Lloyds and he has lost over £7,000. So he wants to be compensated.

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 whole file and acknowledge that Mr C has raised a number of different complaint points. I've concentrated on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it – but because I don't think I need to comment on it in order to reach what I think is the right outcome. The rules of this service allow me to do this.

To make it clear, this complaint is about Lloyds, as Mr C's credit card account provider. It's not about S, who isn't a financial service provider and so I don't have jurisdiction to consider a complaint about it.

I've considered whether I think Lloyds acted unfairly when it considered Mr C's claim under s75.

Under s75, Lloyds is jointly liable for any breaches of contract or misrepresentations made by the supplier of goods or services – which is S in this case.

In order for there to be a valid claim under s75, there needed to be a debtor-creditor-supplier ('DCS') agreement in place. Mr C made the purchase on his credit card which was supplied by Lloyds. I can see the invoice from S is in Mr C's name and that the credit card transaction was in Mr C's name to S. So, I'm satisfied a valid DCS agreement exists here.

I've then considered the financial limits that apply to a valid s75 claim. Mr C needed to have purchased a single item with a cash price of over £100, but no more than £30,000. I can see from the invoice that the amount was within the financial limits. So, it follows that I'm satisfied the financial limits have been met for a valid claim.

Overall, I'm satisfied Mr C has a like claim against Lloyds, as he does against S. And that S were acting as an agent of Lloyds.

What I now need to consider is whether there was a breach of contract or misrepresentation that took place. I've considered this based on all the evidence provided by Mr C and Lloyds.

In this case, there doesn't seem to be any dispute about whether the car has been misrepresented or not or that there has been a breach of contract. Lloyds has accepted that S misrepresented the manufacturer's warranty when the car was sold to Mr C and so, the car wasn't as described when it was sold to Mr C. What I need to decide in this case is whether Lloyds has done enough to put things right.

When Mr C referred his complaint, he said he wanted to reject the car. However, Mr C has confirmed that he sold the car. As a result of this, the car can't be rejected as Mr C is no longer in possession of it. So, I've considered what Lloyds has already done to put things right.

Lloyds offered Mr C a total of £3,432.36 in full and final settlement of Mr C's claim under s75. This was to pay for the cost of the repairs to the turbo that Lloyds said would have been covered by the warranty if it was intact.

Lloyds explained to Mr C he could obtain legal advice or take free independent advice when it made the offer to Mr C. However, Mr C spoke to Lloyds and then agreed to the offer. The payment was made to him by bank transfer by Lloyds. Mr C requested an increase to this amount of a further £100 after repairs to the turbo were carried out due to the oil needing changing. Lloyds agreed to pay this amount to Mr C. I've looked at the terms of the offer and I think it's clear and I don't think it is misleading. Lloyds clearly told Mr C the offer was in full and final settlement.

A couple of months after this, Mr C said he wasn't given the right to reject the car under s75. He said it was never explained to him why Lloyds was paying to have the turbo replaced. However, I've seen a copy of an email to Mr C where Lloyds explained that the car was misrepresented because of the warranty and therefore Lloyds was making an offer for the cost of the turbo replacement.

Having thought about all this carefully, it wasn't unreasonable for Lloyds to offer Mr C the cost of the repairs to the turbo. Where goods are not as described, the Consumer Rights Act 2015 state that a consumer has a 30 day right to reject and after 30 days, the trader has one chance to repair. In this case, Lloyds was only notified of the issues in June 2023, which is outside the 30 day right to reject and it paid for repairs once it was made aware of these. When a repair is accepted, as long as it is carried out in a reasonable time and without significant inconvenience, the consumer then loses their right to reject. In this case, Mr C had the repairs carried out at a garage of his choice, within a reasonable time and without significant inconvenience. So I think Lloyds acted fairly and was entitled to offer the cost of repairs and I don't consider that Mr C had a right to reject the car following the repairs being carried out.

Overall, I'm satisfied that Lloyds was entitled to offer Mr C the cost of repairs, which it did. It also agreed to cover the cost of any other future repairs that may be covered under the warranty. I think this is fair and reasonable in the circumstances of the complaint. It follows that I don't think Lloyds needs to do anything further to put things right.

Did Lloyds act unfairly or unreasonably in any other way?

Mr C said that Lloyds initially didn't accept his evidence but then it did around four weeks later. He also queried why Lloyds didn't accept S's evidence about the warranty.

I can see that Lloyds didn't initially think there was a successful claim under s75. This was because Lloyds initially couldn't see that the five year manufacturer's warranty was sold by S or that any representations about the warranty were made to Mr C. Lloyds also said that

there was no evidence to show the warranty would have covered the cost of the turbo charger.

Following this, Mr C sent Lloyds an email from S stating the car should be covered under the five year manufacturer's warranty and that the manufacturer would not cover his warranty claim due to the previous service history. In response, Lloyds asked Mr C to provide information to show what the manufacturer's warranty would have covered because the previous information from Mr C suggested that the warranty provider may cover it.

Lloyds agreed to pay for the cost of repairs around two weeks after Mr C provided the last bit of information to it. Lloyds also had eight weeks from when Mr C complained to it to review a complaint. So it had until 11 August 2023 to review his concerns and provide an answer. Lloyds carried out its investigation and provided an answer to Mr C in around four weeks. So I don't think it unnecessarily caused any delays and I think it dealt with Mr C's complaint in a reasonable time.

My final decision

I do not uphold Mr S's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 19 December 2024.

Sonia Ahmed
Ombudsman