

The complaint

Mr B complains that Barclays Bank UK PLC trading as Barclaycard (Barclaycard) credited a refund to a debt collection agency.

What happened

Mr B had a Barclaycard. In October 2016, the debt was £29,860.10. Barclaycard issued a Notice of Default and the debt was sold to a debt collection agency (DCA). In July 2020, Barclaycard wrote to Mr B to tell him that after a review of operating procedures, they'd agreed to refund interest and default fees of £12,624.05. This was to be transferred to Mr B's debt with the DCA – to reduce his debt with them.

Mr B complained. He said the money should be paid to him. He was in financial difficulty and needed the money for his business. He said Barclaycard couldn't evidence the notice of assignment of the debt, nor the Consumer Credit Agreement for it. He said that by transferring the debt to the DCA, Barclaycard relinquished all rights to it. He said it wasn't fair to reduce the debt and the money was due to him personally.

Barclaycard said the refund was in respect of the interest and fees applied to Mr B's account between April 2014 and March 2019. The refund was applied to Mr B's debt with the DCA. They provided Mr B with the Notice of Default issued to him in October 2016 before the debt was transferred to the DCA – and said that this gave them the right to do so. They also sent Mr B statements of his Barclaycard account. They apologised for not dealing with his complaint in a timely way and for not responding to his requests for a copy of the credit agreement or letter of assignment. For this, they offered compensation of £100 – which Mr B didn't accept.

Mr B brought his complaint to us. Our investigator said she could only look at what Barclaycard had done and couldn't comment on the actions of the DCA. Barclaycard only needed to keep documents for six years – and so they wouldn't have the CCA agreement. She said Mr B still owed the money – albeit to the DCA. In the eyes of the bank, the debt was still enforceable. By applying the refund to the debt, Barclaycard were placing Mr B back in the position he would've been in had the interest and fees not been applied. So – he benefited by the amount of the refund.

Mr B didn't agree and asked that his complaint be looked at by an ombudsman.

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.

Mr B's complaint is about the actions of Barclaycard – and I can only comment on what Barclaycard have done. If Mr B wishes to make a complaint about the DCA, he should approach them.

I can see that Mr B had a Barclaycard account for many years. By October 2016, the debt was £29,860.10 – and Mr B was in financial difficulty. Barclaycard sent him a letter on 28 October 2016 saying that a default had been registered with the credit reference agencies. The letter also said “...our recoveries team may decide to pass your account to an external Debt Collection Agency....and they collect the full amount from you...” And so – that’s what happened. The debt was transferred to a DCA in December 2016. I’ve seen that in Barclaycard’s records.

In July 2020, Barclaycard wrote to Mr B to say they would refund fees and interest of £12,624.05 – this was following a review which concluded that Barclaycard didn’t meet certain standards for assessing customers’ circumstances and didn’t provide them with the most appropriate support. Barclaycard told us it was their policy to reduce customers’ debts where these had been transferred to a DCA – including Mr B’s debt.

I note Mr B has asked for a copy of the original CCA agreement for the card and a copy of the letter of assignment of the debt to the DCA, neither of which Barclaycard have produced. They’ve said these are held by the DCA and Mr B should approach them for a copy. I can only comment on Barclaycard’s actions here – and this does seem a reasonable approach to take. And even if there isn’t evidence of a CCA agreement or letter of assignment – Mr B clearly had a debt with Barclaycard (as shown by the statements and default notice). And the debt was clearly transferred to the DCA to act for Barclaycard in its collection (as stated in the default notice).

I note also that Mr B doesn’t contest that he owes the DCA money – as he told us he’s been making payments to reduce the debt.

The central point here is that Mr B’s Barclaycard debt was transferred to the DCA. So, he owed the debt of £29,860.10 to the DCA. That balance at the DCA included the fees and interest of £12,624.05 that was refunded – and therefore, it seems fair and reasonable that Barclaycard credited the refund to the debt to reduce it by the same amount. Mr B benefitted to the extent of £12,624.05 – as his liability to the DCA went down by that amount. I acknowledge that Mr B would rather have received the cash – to help his financial situation. But equally, it wouldn’t seem fair and reasonable for the Barclaycard debt (as transferred to the DCA) to have been left outstanding at the higher figure either.

I can see that Mr B feels strongly about his complaint and will be disappointed by my decision. I was sorry to learn of his ongoing financial difficulties. But I won’t be asking Barclaycard to do anymore here. If Mr B wishes to receive the compensation of £100 offered by Barclaycard, he should get in touch with them to arrange payment.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr B to accept or reject my decision before 10 May 2022.

Martin Lord
Ombudsman