

The complaint

Mr S complains about a mobile telephone he bought using his credit card account with Barclays Bank UK PLC.

What happened

In April 2020, Mr S used his credit card account with Barclays, to make an online purchase to buy a mobile telephone from a retailer. Around a month later, Mr S says he noticed the battery within the handset lost charge much sooner than he had expected. So, Mr S says he contacted the retailer to try to arrange for a repair.

Mr S says the retailer didn't sort the problem with the battery out for him. So, he contacted Barclays and asked them to consider a claim under section 75 of the Consumer Credit Act 1974 (CCA). Mr S also says Barclays told him not to make any payments to his account, while they were considering his claim.

After some initial confusion about the progress of Mr S's claim, Barclays responded. They said Mr S had made the payment for the handset to a company, other than the retailer. Because of that, Barclays said the debtor, creditor, supplier (DCS) agreement had been broken. So, they couldn't look at a section 75 claim or process a chargeback enquiry.

Barclays did however acknowledge that they could have been clearer with Mr S about the repayments to his account. To put things right, Barclays offered to pay Mr S £75 for the worry they had caused. Barclays also told Mr S that although the account hadn't accrued any late payment charges, the interest applied was correct.

Mr S didn't agree with Barclays' response to his section 75 claim and brought his complaint to us. One of our investigators looked into Mr S's case and found that the DCS agreement hadn't been broken. She said the third company's role was only to process the payment to the retailer, so the DCS agreement was intact.

The investigator asked Mr S to provide some evidence to show there was a battery fault and for some quotes for the cost to replace it. Once Mr S had provided the evidence and the quotes, the investigator agreed that Barclays hadn't treated Mr S fairly. She concluded that they should pay for the cost to replace the battery and the diagnostic costs Mr S had incurred.

Barclays accepted the investigator's conclusions and offered to pay Mr S a total of £188. But, Mr S didn't accept the investigator's findings. He said Barclays should have allowed him to reject the handset when he first contacted them and should have offered him a full refund. Mr S also said he should receive an additional payment for the inconvenience he's experienced.

The investigator didn't change her conclusions and Mr S's case has been passed to me to make a decision.

I sent Mr S and Barclays my provisional decision on this case, on 17 February 2022. I

explained why I think the complaint should be upheld. A copy of my provisional findings is included below:

Section 75 of the CCA

Mr S bought the mobile telephone from an online retailer using his credit card with Barclays. The account is a regulated credit facility. So, we are able to consider complaints about it. The relevant piece of legislation I've thought about is section 75 of the CCA. This provides protection for consumers, for goods and services bought using credit.

Under section 75, subject to certain criteria, consumers who use a card like Mr S's to pay for goods and services, have an equal claim against the finance provider, for any breach of contract or misrepresentation by the supplier.

When Mr S first brought his section 75 claim to Barclays, they said the DCS agreement had been broken. Barclays explained that the payment made by Mr S went to a third party company, which broke the link between them and the supplier of the mobile telephone.

From looking at Mr S's credit card statement, I can see that the transaction for the mobile telephone shows two different company names. Firstly, an abbreviated version of the third party company's name and secondly, the name of the supplier.

So, I've considered if this means the payment went to the third party company, or if that company was only used by the supplier to process Mr S's payment.

The investigator spoke to the third party company and I've reviewed the terms and conditions from its website. I've considered all the information available and I don't think the supplier had a commercial entity agreement with the third party company. So, I think the third party's role was to process the payment for the supplier. And I don't think this breaks the DCS agreement which Barclays have referred to.

Having considered the background of Mr S's case, I'm satisfied that in his complaint, the criteria exists for him to be able to bring a section 75 claim against Barclays.

Under the Consumer Rights Act 2015 (CRA), there is an implied term written into contracts that goods supplied need to be of satisfactory quality. The CRA says the quality of goods are satisfactory if they meet the standard that a reasonable person would consider satisfactory, taking into account any description of the goods, the price and all the other relevant circumstances.

In Mr S's case, he says the handset was of poor quality. If the goods provided by the supplier are not of satisfactory quality, then this is a breach of contract. So, Barclays' responsibility to Mr S was to consider his section 75 claim and decide if the handset was of satisfactory quality. If it's found it was not of satisfactory quality, it would be for Barclays to then offer Mr S an appropriate remedy.

The fault with the handset

Mr S bought the mobile telephone in April 2020. The handset was a refurbished model and graded "very good" by the supplier. I think a refurbished model is different from a brand new handset, in that a reasonable person wouldn't expect it to be completely defect free.

Mr S first made Barclays aware of his section 75 claim around four weeks after purchasing the handset. I can see from what Mr S has told us that he spent those first weeks trying to resolve things with the supplier.

I can also see from Mr S's records that he bought an adaptor and a battery pack shortly after buying the handset. He says he did this to alleviate the problem with the battery, while he was waiting to sort things out.

The documents provided by Mr S show that the battery pack cost £29.99, but there's no receipt or price placed on the adaptor. Mr S has told us how difficult it was for him to do much else, to try and keep the handset in working order in and around April 2020. And he's explained how important the use of a mobile telephone was at that time.

On balance, I'm persuaded it was a reasonable step for Mr S to have taken when he bought the battery pack. I'm persuaded he needed a working handset and his options to take it to a repair shop at that point were very limited.

In May 2021, Mr S took the handset to a mobile telephone repair shop near to where he lives. The repair shop provided Mr S with a hand written quote of £30 for a new battery. In August 2021, Mr S paid a £10 diagnostic fee to another repair shop, who quoted £70 to repair the battery. I can see that Mr S has sent us evidence of both of these quotes.

Around a month later, in September 2021, Mr S took the handset to a repair outlet of the manufacturer. They provided Mr S with a report to say the battery was close to deteriorating. Mr S has provided us with a copy of that report and a separate online quote from the manufacturer, for £158 to replace the battery and to repair the wireless charging function.

Due to Mr S's personal circumstances, he says he needed to stay at home during and after the Covid-19 lockdown restrictions in 2020. And that it wasn't until May 2021, where he felt safe enough to go to a repair shop.

I've considered what Mr S says here and the evidence he's provided about his personal circumstances. Having done so, I agree it was difficult for him to take it to a repair shop between April 2020 and May 2021. As such, I think there are fair reasons why it took a significant period of time for Mr S to have the handset looked at. So, I've gone on to consider if there's been a breach of contract and if Barclays should offer a remedy.

I think the report from the manufacturer of the handset is persuasive and it shows that the battery needs to be replaced. However, the report doesn't detail a fault with the wireless charging function. I've also thought about the comments from the other repair shops Mr S took the handset to. And I think they are consistent, in that they point towards the need for a replacement battery.

The handset is a refurbished model. But, given its price, description and specification, I think a reasonable person would expect the battery to not need replacing so soon after purchase. Having considered everything, I think a reasonable person wouldn't consider the handset of satisfactory quality. So, I think there's been a breach of contract by the supplier and I think Barclays should offer Mr S a remedy.

The documents Mr S has sent to us show he first raised his section 75 claim with Barclays, more than 30 days after he bought the handset from the supplier. I'm aware Mr S has alluded to some contact with Barclays before the emails he has sent to us. But, on balance, I'm not persuaded he told Barclays he wanted to reject the handset before the section 75 claim began on 19 May 2020.

Overall I think Mr S contacted Barclays after the short term right to reject timescale, detailed in the CRA. It then follows that Mr S has a right to a repair or replacement of the handset.

Barclays became aware of the manufacturer's report in September 2021. Up until then, the

handset remained with Mr S and the fault wasn't fully diagnosed. Soon after receiving a copy of the report, Barclays offered to pay for the repair to the handset and towards the cost Mr S incurred to diagnose the fault.

Although Mr S has had cheaper quotes elsewhere, in this instance, I think it's reasonable for him to want the manufacturer to carry out the repair. In all the circumstances, I think Barclays have treated Mr S fairly, by offering to meet the manufacturer's repair to the battery, once they were aware of the fault and the cost to put things right.

The offer from Barclays

Mr S has sent us details of a repair quote from the manufacturer of the handset, which he generated himself, from their website. This quote included a repair to the wireless charging function.

The report from the manufacturer doesn't suggest that the wireless charging function needs to be repaired. Instead, the report intimates that the battery needs to be replaced. Mr S's quote says a new battery from the manufacturer will cost £99. He's also shown us that he bought a portable power bank for £29.99 and paid another £10 for a diagnostic report.

I think this means the repair, portable power bank and the diagnosis comes to a total of £138.99. Barclays offered a total of £188 to Mr S and have told us that this was paid to him, in November 2021.

Having considered everything, I think the offer from Barclays more than covers the costs Mr S has told us about. So, I don't think it would be fair to require Barclays to increase the payment they say they've already made to Mr S.

It did take both Mr S and Barclays quite some time to provide everything needed to progress Mr S's section 75 claim. But, in all the circumstances, I think by paying for the repair and some other costs, Barclays have treated Mr S fairly and reasonably.

I'm aware that this case came about after Mr S raised a different complaint about the information Barclays gave to him, about making repayments to his account. To be clear, I make no finding about that complaint, as it was dealt with separately to this case.

Mr S responded to the provisional decision and in summary, he said:

- He bought the battery pack to keep the handset working.
- He wants the correspondence he had with Barclays and the investigator reconsidered.
- His health continues to suffer and has provided evidence of a recent visit from a paramedic.

Barclays responded to the provisional decision and accepted it.

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'm sorry to hear that Mr S's health concerns are continuing and the difficult personal circumstances he's described, when he was helped by a paramedic recently. Throughout

Mr S' complaint, I have thought very carefully about the impact his health had on how difficult it was for him to take the handset to a place of repair.

Overall, I agree with Mr S, that it must have been very frustrating when he was advised to stay at home. But, when Mr S was able to get the handset looked at by an engineer, I think Barclays treated him fairly, by offering to cover the cost of a new battery from the manufacturer.

Mr S has also reiterated that he paid for a battery pack not long after getting the handset, just to keep it working. I think the steps taken by Mr S were reasonable here. However, having considered everything, I think Barclays' offer is fair. I say this because it includes the cost for the battery pack he bought shortly after getting the handset.

I've found that the handset was not of satisfactory quality when Mr S got it. But under the CRA, I think it's fair that Barclays are given the opportunity to organise a repair.

I have reviewed all the copies of emails and the other documents which Mr S sent to us in response to my provisional decision. Although I'm grateful for Mr S for putting that information together, I think we already had the documents he provided. But, I'd like to reassure Mr S, that I have considered everything.

In all the circumstances, I still think Barclays have treated Mr S fairly. I think Barclays' offer more than covers the manufacturer's cost to replace the battery, the diagnostic fee Mr S was charged and the cost of the auxiliary battery pack. So, other than making the payment to Mr S, I don't think Barclays need to take any further steps to put the matter right.

My final decision

For these reasons, my final decision is that I propose to uphold this complaint and require Barclays Bank UK PLC to pay Mr S their offer of £188.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 5 April 2022.

Sam Wedderburn
Ombudsman