

The complaint

Mr S complains that Barclays Bank UK PLC trading as Barclaycard didn't fully uphold his claim under Section 75 of the Consumer Credit Act 1974.

What happened

In December 2022 Mr S purchased a second-hand car from a merchant and paid using his Barclaycard.

The day after getting the car Mr S experienced issues with the engine management light illuminating, the oil level fluctuating and a knocking noise from the suspension.

Mr S reported the issues to the merchant who told him to take the car to a local garage and get the faults diagnosed. The merchant said it would pay for any repairs.

Mr S had the car looked at in January 2019. The garage said the car needed significant repairs totalling £5260.

Mr S made attempts to contact the merchant about the repairs but couldn't get a response.

Mr S raised a Section 75 claim with Barclaycard. Barclaycard agreed to pay the claim and asked Mr S to obtain an updated quote for repairs. The updated quote was £6048.79. Barclaycard agreed to cover this, as well as £500 for a warranty which Mr S had paid for but never received and £96 for the diagnostic fee.

The garage carrying out the repairs contacted Mr S to advise him that when they removed the engine, they had found that the timing chain needed replacing. It provided an estimate of £2800 to do this work.

Mr S contacted Barclaycard to advise them that further repairs were needed. Barclaycard said it wouldn't cover these extra repairs because there was no evidence that the timing chain was faulty at the point of supply.

Mr S brought his complaint to this service.

Our investigator didn't uphold the complaint. They said the timing chain was a wear and tear item and that there was no evidence of a fault with the timing chain at the point of supply. The investigator said they thought the offer from Barclaycard to meet 50% of the additional repair costs was fair.

Mr S didn't agree.

I issued a provisional decision in which I said that because the garage had diagnosed the fault with the timing chain within the first six months of the point of supply, the relevant legislation presumed that the fault was present or developing at the point of supply.

I said that although Barclaycard had said that there was no evidence that the timing chain was faulty at the point of supply, this wasn't sufficient because the burden of proof rested

with Barclaycard to rebut the presumption and they hadn't adduced any evidence to show that the fault had developed whilst the car was in Mr S's possession.

Barclaycard has said that if the timing chain had been faulty at the point of supply, Mr S wouldn't have been able to drive the car. I said that the key point here – in my view – was that the timing chain was found by the repairing garage to be stretched as opposed to snapped, and therefore this wouldn't render the car undriveable.

Barclaycard said that the fault with the timing chain wasn't diagnosed when the other issues were diagnosed in January 2023. I acknowledged that. But I said this of itself wasn't sufficient to rebut the presumption that the fault was present or developing at the point of supply. I explained that the fault with the timing chain wasn't discovered until the engine was removed when the repairs were completed in May 2023. I said that the engine hadn't been removed in January 2023 when the car was inspected and that cars with a mid-mounted engine – such as a sports car like Mr S's car – needed to have the engine removed in order to inspect the timing chain. I concluded that the fault with the timing chain could only be seen when the engine was removed, and this is why it wasn't identified in January 2023.

I said that even if I was wrong about that, I was of the view that the fault with the timing chain meant that the car wasn't of satisfactory quality for reasons of durability. A timing chain can be expected to last for between 80,000 – 120,000 miles. At the point when the fault with the timing chain was diagnosed, Mr S had covered around 73,700 miles. I said that I didn't think a reasonable person would expect to replace the timing chain at that level of mileage.

I decided that the car wasn't of satisfactory quality when it was supplied, which meant that there had been a breach of contract for the purposes of Section 75. I said that Barclaycard should refund Mr S the sum of £2800 to cover the cost of repairs to the timing chain.

I invited both parties to let me have any further evidence or arguments they wanted me to consider.

Both parties said they accepted my provisional 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.

Both parties have accepted my provisional decision. I therefore see no reason to reach a different conclusion to that which I've set out in my provisional decision.

Putting things right

To put things right, Barclays Bank UK PLC trading as Barclaycard must refund Mr S the sum of £2800 to cover the repairs to the timing chain.

My final decision

My final decision is that I uphold the complaint. Barclays Bank UK PLC trading as Barclaycard must take the steps I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 29 February 2024.

Emma Davy
Ombudsman