

The complaint

Mr D complains about how Barclays Bank UK PLC trading as Barclaycard ("Barclays") handled a claim he made in relation to a transaction on his credit card.

What happened

Mr D purchased storage services through a company I'll refer to as "P", using his Barclays' credit card in around January 2016. This was at an initial cost of around £2,000, which included items being collected and delivered to the storage unit, a wrapping service and supply materials. Following the initial payment, a rolling fee of £300 was paid for every four weeks P stored the goods for Mr D. Mr D has confirmed that not all of the rolling monthly fees were paid on his Barclays' credit card.

In July 2021, Mr D says he realised whilst the goods were in storage, one sofa was damaged by an animal and two other sofas had suffered from water ingress which had caused mould to grow. P agreed to clean the sofa which Mr D says had an animal nesting in it. However, Mr D says this didn't remove a mark and the fabric didn't feel the same. He also said that water damage left permanent marks on the affected sofas.

Mr D complained to P in August 2021 and said the contract had been misrepresented to him. Mr D said he didn't want to use the specialist cleaning company that P had used to clean the first sofa. Mr D said he wanted all three of the sofas replaced. P said no misrepresentation had been made and the sofas had been stored correctly. P said it had arranged cleaning for all of the sofas at no cost to Mr D and said the sofas must have been slightly damp or had food remnants in them when they arrived at the storage facility in January 2016. P said it would pay for the sofas to be cleaned by a company of Mr D's choice. Mr D said he requested insurance details from P, but it didn't provide these.

As Mr D remained unhappy with this, he complained to Barclays in August 2021. Barclays offered Mr D a refund of one month's storage cost as it said each rolling four week period was separately invoiced. However, this complaint was paused whilst Mrs D had a claim against P heard in court. This claim was heard in October 2022 where it was dismissed and it was ordered that Mrs D pay P's costs.

Following this, Mr D reopened his claim with Barclays in January 2023. He reiterated his complaint to P and said as well as a replacement of the sofas, he was claiming for associated storage costs plus interest. Mr D said his lawyers failed to particularise his claim which is why his court claim failed. He made a further complaint to Barclays in April 2023 and said that P's service hadn't been carried out with reasonable skill and care.

In August 2023, Barclays issued its response to Mr D's claim. It said a court had already found P wasn't at fault. So it suggested Mr D pursue the matter with P. It also sent a follow up letter in November 2023 and said it would need to review a copy of the insurance documents from P to see what the sofas were covered for whilst they were in storage. It said Mr D could refer a complaint to this service if he remained dissatisfied.

Mr D referred a complaint to this service and said he wanted Barclays to reimburse him £29,538. He said out of the £24,093 paid to P, £18,288 was paid using his Barclays credit

card and because Barclays didn't uphold his complaint when he initially complained, he could have avoided additional court costs.

Our investigator said that whilst there was evidence to suggest P breached its contract with Mr D, the resolution P reached with Mr D was in line with what would be expected of a successful s75 claim. She said a claim for the full amount of the storage costs was disproportionate as P had stored the items as agreed. She also said that whilst there was an argument to suggest that P hadn't stored the sofas correctly, this was rectified by the sofas being cleaned. She also said whilst Mr D questioned the quality of the cleaning, there was no information to suggest the cleaning was unsuccessful.

Mr D disagreed. He said that a claim under section 75 of the Consumer Credit Act 1974 ("s75") meant an equal claim in value against P, which was the whole cost. Mr D said the court confirmed there had been a breach of contract, but the case was pleaded incorrectly. He also said he paid an additional amount for the items to be insured but these documents weren't provided by P. Mr D said the two sofas with mould were not cleaned. He said this was because if the sofas were cleaned it wouldn't be suitable as his wife has an immune deficiency. He said P did nothing about this.

Our investigator said the outcome reached was fair and reasonable. She said if Mr D had only paid to store the items that were damaged, his storage costs would have been lower and so she didn't think Barclays should refund the full storage costs.

Mr D said the goods should be returned in the same condition they were sent to P. He said the sofa that was cleaned wasn't returned in the same condition as it was when it was put into storage in 2016 and that he had been advised by his doctors not to make a claim against his solicitor due to his medical problems.

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

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 D 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 Barclays, as Mr D's credit card account provider. It's not about P, who isn't a financial service provider and so, doesn't fall within the remit of the Financial Ombudsman Service.

What I need to decide in this case is whether Barclays fairly handled Mr D's claim under s75. If I think it hasn't, I'll need to decide what's fair, if anything, to put things right.

Under s75, Barclays is jointly liable for any breaches of contract or misrepresentations made by the supplier of goods or services – which is P 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 D made the purchase on his credit card which was supplied by Barclays. I can see the invoice from P is in Mr D's name. Barclays have shown some of the credit card transactions were in Mr D'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 D 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 individual amounts paid fall within the financial limits. So, it follows this that I'm satisfied the financial limits have been met for a valid claim.

Overall, I'm satisfied Mr D has a like claim against Barclays, as he does against P. And that P was acting as an agent of Barclays.

In this case, Mr D contracted with P for it to provide a collection and delivery service, as well as the wrapping of and storage of the collected goods. There isn't any dispute that Mr D received this and the monthly storage service from P between 2016 and 2021. What's at dispute is whether there was a breach of contract or misrepresentation in relation to the storage of the goods. And if so, whether P or Barclays has done enough to put things right.

P's liability under the rolling monthly contract was to store the goods for Mr D. Under the Consumer Rights Act 2015 ("CRA") implied into this contract is that the service must be carried out with reasonable skill and care.

Mr D says the goods weren't sufficiently packaged or taken care of which led to an animal nesting in one sofa and water ingress in the other sofas. On the contrary, P has said that the sofas must have been slightly damp or had food remnants on the items when they arrived at the storage facility in January 2016. P said this is why the sofas were returned to Mr D in the condition they were in. P said it didn't agree that the damage had been caused whilst the items were in its care. Barclays agreed and then disagreed that a breach of contract had occurred.

I've considered all the supporting information that has been provided. I've seen pictures of the two sofas with the water ingress. I can see that there does appear to be some evidence of mould in the pictures. However, there is no conclusive information to suggest why the mould has occurred. It's not clear whether this has happened due to the way they were stored or because they had food on them on arrival, or whether they may have been slightly damp when they arrived at the storage facility. So, it's not clear whether the sofas were damaged due to a lack of reasonable care or skill or whether the damage was caused due to the condition the sofas were supplied to P in. In this case, it would be down to Mr D to show that the service hadn't been carried out with reasonable care and skill given the sofas were taken into storage for more than five years. Mr D hasn't provided sufficient evidence to persuade me that this is the case. So, I'm not persuaded that P has breached the terms of its contract with Mr D, in this case.

Having said this, even if I was persuaded that there was a breach of contract, I think the remedy proposed by P is fair and reasonable in the circumstances. This is because P has offered to have the sofas professionally cleaned at no cost to Mr D, as a gesture of goodwill. This is by a cleaner of Mr D's choice. I understand that Mr D is unhappy with the quality of the cleaning of one of the sofas, which he says had an animal nesting in it, however there is no supporting information to suggest that the cleaning was not fit for purpose. I've also not seen anything to suggest that a misrepresentation occurred at the time the contract was agreed.

In addition, I'm mindful that a "*like*" claim has already been heard in court against P. Having read the court claim form that Mr D has provided, it confirms that Mrs D has already made a claim in court against P. It also lists that Mrs D is unhappy with the cleaning of the sofa and mentions Mrs D's medical condition. However, the court ruled in favour of P. I understand that Mr D has said the court confirmed there had been a breach of contract, but there isn't anything in any of the documentation supplied to support his. The judgment simply confirms that the claim was dismissed and costs were awarded to P.

Given that a like claim has already been heard in court against P and s75 mentions a like claim against the creditor as the supplier, I don't think it would be appropriate to suggest that any costs should be awarded to Mr D, as a court has already ruled on a like claim that they shouldn't. I understand that Mr D says the court didn't award in his or Mrs D's favour due to how his solicitor presented the case, however it's likely that Mr and Mrs D had a right to appeal the ruling. However, due to medical reasons, which I'm sorry to hear about, Mr and Mrs D didn't pursue this avenue.

In relation to the insurance, the invoices and quotes provided don't mention a payment for any additional insurance paid for by way of Mr D's Barclays credit card. If Mr D does manage to locate this information about the insurance purchased, he'll need to refer it to Barclays in the first instance.

Overall, I don't think Barclays handled Mr D's claim under s75 unfairly. I appreciate this is likely to come as a disappointment to Mr and Mrs D, given Mr and Mrs D have disclosed their health conditions and the impact this has had to them. I'm sorry to hear about this. However I hope they understand my reasons for reaching this outcome. It follows that I'm not asking Barclays to do anything in relation to Mr D's claim under s75.

My final decision

My final decision is that I do not uphold Mr D's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 7 January 2025.

Sonia Ahmed
Ombudsman