

The complaint

Mr J complains that NewDay Ltd (NewDay) has treated him unfairly in relation to its obligations with regard to a payment he made using his credit card.

What happened

Mr J approached a garage, who I'll call L, to assess his car and provide a quote for repairs after he experienced some issues with it. Mr J initially approached L with regard to the repair of a failed turbo, however L advised that the DPF also be replaced. The total cost of the works was £1,990 (inclusive of parts and labour) and Mr J paid this using his NewDay credit card on 28 August 2024.

Mr J states that when he collected the vehicle, he noted that the issues were still present despite the repairs. He contacted L and was not able to reach a resolution on the matter. He has also mentioned that he had a disagreement with L about the parts fitted as he had ordered replacement parts and L had not used these.

Mr J approached NewDay to raise a payment dispute for £1,440. He said he didn't think the parts had been replaced at all and was asking for a refund of the amount paid to L. NewDay raised a chargeback dispute and this was defended by L. On review of the information provided, NewDay decided not to proceed further with the chargeback on the basis that Mr J had failed to demonstrate that he had tried to resolve matters with L prior to approaching NewDay. It then also considered the claim under Section 75 of the Consumer Credit Act 1974 (Section 75) and said it couldn't establish a breach of contract as Mr J had been warned prior to the works having completed that the works might not successfully resolve the issues he was experiencing with the car.

Mr J raised a complaint, but NewDay maintained that it had considered his dispute fairly. Mr J then brought his complaint to our service. Our investigator reviewed the complaint and said she didn't find NewDay had treated Mr J unfairly with regard to the chargeback dispute based on the evidence available. She further said she didn't think the claim would succeed under Section 75 because Mr J refused a further repair from L and because the RAC report submitted did not provide enough evidence to confirm a breach of contract.

Unhappy with this outcome, Mr J asked for an Ombudsman to review his complaint. He said the report provided clearly states that L did not fit a new turbo charger and DPF as it was contracted to. Mr J further said he contacted L by email and message and received no response. So, the complaint has now 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 would like to start by saying that I have provided a brief summary of the events that occurred above. I intend no discourtesy by this and can assure both parties that I have taken all the information provided into consideration when reaching a decision on this complaint.

In this decision, I'll concentrate my comments on what I think is relevant. If I don't comment on a specific point, it's not because I've failed to consider it, but because I don't think I need to comment in order to reach a fair and reasonable outcome. Our rules allow me to do this, and this reflects the nature of our service as a free and informal alternative to the courts.

I also think it's worth clarifying that I'm deciding whether NewDay acted fairly in assisting Mr J with his dispute against L. I'm not making a finding on the underlying dispute Mr J has with L. NewDay did not take payment for services that Mr J is now attempting to recover, so when considering what's fair and reasonable, I'm only considering whether NewDay acted in line with its obligations as a provider of financial services.

Chargeback

Chargeback is a voluntary scheme under which settlement disputes are resolved between card issuers and merchants, under the relevant card scheme. A card issuer will review the claim against the possible reasons for a chargeback and look at whether it would be able to make a successful claim for the customer. Card issuers do not have to submit claims and usually will only do so, if it is likely to be successful. We don't expect them to raise a claim if there is little prospect of success.

In this particular case, NewDay raised a chargeback dispute on Mr J's behalf. It is common when this type of action is taken for the card issuer to provide a temporary refund into the cardholder's account pending the outcome of the claim – and I can see NewDay did this for Mr J on 9 October 2024. L defended the dispute. At this stage, I would expect NewDay to reconsider the information available to it to decide whether the claim had reasonable prospects of success and should be pursued to pre-arbitration or not, and I can see NewDay did this here.

In the defence L said the repairs were made and the invoice was settled by Mr J. L said they were informed the next day that the car was recovered due to an engine failure, and it offered to assist but Mr J refused, and it has since had no contact from Mr J. On the other hand, Mr J provided a report from RAC. In the first instance, it is dated 27 September 2024 which is over a month after the repairs were completed. The RAC breakdown report says:

“PLEASE NOTE ANY DIAGNOSIS MADE BY OUR PATROLS IS A SUSPECTED DIAGNOSIS AND THEREFORE SHOULD BE VERIFIED BY YOUR REPAIRING GARAGE PRIOR TO ANY WORK BEING COMPLETED, OR PARTS BEING ORDERED...”

Vehicle has no new turbo charger and DPF fitted by garage as fault still present, then member Paid use to recover to home address as garage said not safe to start.”

In this particular case, I cannot see that the garage has provided compelling evidence that the repairs were completed, but neither has the customer provided compelling evidence that the repairs were not completed and have either failed, or a new issue has arisen. Based on the evidence available, I find the chargeback dispute to have low prospects of success as a result and so I find it was reasonable for NewDay to decline to continue with the dispute at this point. Once NewDay made this decision, it reversed the temporary credit so the charge of £1,440 was added back to Mr J's credit card account on 10 January 2025. This is usual when a dispute has been declined and so I don't find that NewDay has done anything wrong.

Section 75

Section 75 allows – in certain circumstances - for a creditor (NewDay) to be jointly and severally liable for any claim by the debtor (Mr J) of breach of contract or misrepresentation made by a supplier of goods and/or services (L). In this particular complaint, as Mr J is

saying he paid for replacement parts which were not fitted for him as expected, we do not need to consider misrepresentation and so I will focus on breach of contract.

The only evidence supplied by Mr J to support his position is a breakdown report dated a month after the work was done to his car, which says the text quoted above. The report indicates that any diagnosis made is a suspected one and the very nature of breakdown services mean that they recover vehicles and provide brief reasoning why an issue may've occurred but cannot be relied on for more detailed diagnostics. It appears from the way in which it is written as though the person writing the report has repeated information provided by Mr J. And there is no explanation as to why this report is from a month later when Mr J states he experienced issues on collection of the vehicle from L. So, I do not find this report to be adequate to prove that a breach of contract has occurred.

In addition, Mr J has said he contacted the merchant to discuss the issues, and the merchant does acknowledge being contacted the next day, however it says Mr J did not cooperate and want L to look at the car again. Mr J has provided evidence to show only that he contacted L to discuss the vehicle on 4 March 2025 which is after his complaint with NewDay concluded and just before he brought his complaint to our Service. I do not agree with NewDay's position that Mr J was warned the repairs might not work, as the text in question seems to be referencing no guarantee that the old DPF unit will work after washing and repairing it, rather than being in reference to the new DPF which it had confirmed was fitted. But I don't find that the error that NewDay made in interpreting this evidence changes anything.

Overall, the timeline of events does not indicate that Mr J has liaised with L properly in an attempt to sort out any issues which occurred following the work having been done by L. The report provided by Mr J also does not support his position regarding the faults and whether the parts were replaced or not. However, I can see that he did have engine failure issues after collecting the car so if he was to obtain an independent inspection report then he would be able to submit this to NewDay for further review under Section 75. Having said that, based on the information currently available, I find that NewDay has treated Mr J in a fair and reasonable manner when assessing his claim.

My final decision

My final decision is that I do not uphold Mr J's complaint against NewDay Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 10 October 2025.

Vanisha Patel
Ombudsman