DRN-5803650

The complaint

Mr N complains about the way in which Barclays Bank UK PLC dealt with a claim he made under section 75 of the Consumer Credit Act 1974 ("section 75"). The bank operates in this case under its Barclaycard brand.

What happened

In or around June 2020 Mr N agreed to buy a used camper van from a trader, which I'll refer to as "P". He paid a deposit of £500. It needed some work to be carried out before Mr N could take delivery.

The vehicle was delivered to Mr N in March 2021, when he paid the balance of the purchase price of £3,990 with his Barclaycard.

Mr N says that he found some faults with the vehicle, but he was able to arrange repairs. However, as time went by, he found more faults. In September 2024, Mr N says he tried to use the van but it would not go into reverse. He says that he tried to reject the vehicle but that, by the time he did so, P had gone out of business.

Amongst other things, Mr N says that sills were corroded, the gearbox would not put the vehicle into reverse, the windscreen wipers were faulty and the petrol cap needed replacing. Mr N says too that the MOT certificate provided with the van was not valid.

Mr N referred the matter to Barclaycard, seeking to make a claim under section 75.

Barclaycard did not accept the claim. It said that it was more than three years since Mr N had bought the van and that our rules therefore prevented him from referring the matter to this service. The bank did not address the substance of the section 75 claim. Mr N complained to Barclaycard about its response to the claim. It did not change its view, although it did pay Mr N £50 compensation in response to his comments about the tone of its correspondence.

Mr N referred the matter to this service, where one of our investigators considered what had happened. He concluded that Barclaycard's response to Mr N's claim had been unsatisfactory. He explained that the bank had misunderstood this service's rules and that it should have addressed the substance of the section 75 claim. He went on to explain however that he did not believe that there were sufficient grounds on which to uphold such a claim. He recommended that Barclaycard pay Mr N further compensation of £75, making £125 in total.

Barclaycard accepted the investigator's recommendation, but Mr N did not; he asked that an ombudsman review the case. I did that and issued a provisional decision in which I said:

In keeping with the role of the Financial Ombudsman Service as an informal dispute resolution service, I have kept my comments here relatively brief. I have not specifically addressed each and every argument the parties (and in particular Mr N) have made, but I have considered all the evidence and arguments very carefully. And, in part at least, the

reason for issuing this provisional decision is to indicate the areas in which I believe additional evidence might be helpful.

One effect of section 75 is that, subject to certain conditions, an individual who uses a credit card to pay for goods or services and who has a claim for breach of contract or misrepresentation against the supplier of those goods or services has a like claim against the credit card provider. The necessary relationships between Barclaycard, P and Mr N are present in this case, and the transaction falls within the relevant financial parameters. I don't believe Barclaycard disputes that.

In its response to Mr N's claim, however, Barclaycard raised the issue of the time limits set out in that part of the Financial Conduct Authority's Handbook which deals with dispute resolution – and known as DISP. It said, in summary, that N was prevented by DISP2.8.2R from bringing a claim under section 75 because it was more than three years since he had bought the van and that he must have known about any faults very soon after that. This remained its position (which it repeated on more than occasion) even after our investigator had corrected it.

The relevant part of DISP2.8.2R says:

The Ombudsman cannot consider a complaint if the complainant refers it to the Financial Ombudsman Service:

…

(2) more than:

(a) six years after the event complained of; or (if later)

(b) three years from the date on which the complainant became aware (or ought reasonably to have become aware) that he had cause for complaint;

unless the complainant referred the complaint to the respondent or to the Ombudsman within that period and has a written acknowledgement or some other record of the complaint having been received…

I find it surprising that Barclaycard sought to rely on this rule as a reason for not addressing Mr N's complaint and even more surprising that it continued to do so. I make the following observations:

- *At the relevant time, Mr N had not made a complaint about the bank's actions, he had tried to make a claim arising from P's actions. His complaint arose later and was (and is) about the bank's response to the section 75 claim.*
- *The three year time limit referred to in DISP2.8.2(2)(b)R can only ever have the effect of extending the time limit in DISP2.8.2(2)(a)R; it cannot reduce it.*
- *A creditor's obligation to deal with section 75 claims is not affected by the time limits which apply to complaints referred to this service.*
- *If Mr N was unhappy with Barclaycard's response to the section 75 claim, he could have chosen to start court proceedings against the bank. Our time limits would have been completely irrelevant if he had chosen that path.*

In my view, Barclaycard's failure to address Mr N's claim in the way it should have done (or at all) has caused him significant inconvenience, meriting an award of rather more than £125. I intend to increase that compensation to £350 – that is, a further £300 on top of the £50 already paid.

I turn now to the merits of the claim.

There are a number of features of the purchase contract for the van which are slightly unusual. This was not a case of a someone buying a used vehicle from a dealer and immediately driving it away. The sale was agreed many months before delivery. The van needed to be re-registered and shipped from the Isle of Man. It appears from its Isle of Man licence that it had not been driven for some years. Part of the deal appears to have been that some renovation work would be carried out between June 2020 and March 2021. And it also appears that Mr N's initial intention was not necessarily to use the camper van for trips, but that it would provide temporary static accommodation. I have considered Mr N's case that he has a claim for breach of contract against this background. I accept of course that he may be able to provide more information about all of these matters – and indeed would invite him to do so.

Under the Consumer Rights Act 2015 Mr N's contract with P was to be read as including a term that the camper van would be of satisfactory quality. That means the quality which a reasonable person would expect in all the circumstances. In this case, that includes the price, mileage and age of the vehicle. It also includes the matters I have mentioned above, as well as any defects brought to the buyer's attention.

The van was re-registered when it was returned to the UK. Its licence plate indicates it was first registered between August 1990 and July 1991, so it was around 30 years old when Mr N bought it. The odometer reading was just under 70,000 miles, but I think it unlikely that was an accurate reflection of the true mileage. It might have already passed 100,000 miles.

I would not expect the van to have been perfect, even if it had been sold as a motor home which could be used immediately. Even Mr N's own evidence suggests that he did not expect that either.

Be that as it may, there is very little to show the condition of the van at the point of delivery and how that related to the agreement which Mr N had with P or to the condition which could be expected of a van of that age, price and mileage. It is clear that some repairs have been carried out, but that is not, of itself, a basis on which – given the wider circumstances of the sale – I believe I can fairly say the section 75 claim should have been upheld.

As I have indicated, it may be that Mr N has more evidence he can provide – both about the background to the sale and about the condition at the time of sale. But, based on what I have seen to date, I do not believe I can say the vehicle was not of satisfactory quality at the time of sale.

Barclaycard accepted my provisional decision and offered to pay Mr N a further £300. Mr N did not, however. He said that my provisional decision had been wrong is saying the vehicle was in the Isle of Man, although it had been. He explained that it had been supplied as a working old motor home and that it was obvious it had been supplied in breach of contract.

Mr N also provided a list of MOT centres which did not include the centre which had issued the vehicle's MOT certificate in October 2020. He said this was evidence that the certificate had been faked. He also provided a copy of that certificate, a photograph of the vehicle's dashboard (showing its mileage) and a copy of his insurance declaration of the mileage – required because he took out limited mileage cover.

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 am grateful for Mr N's clarification that the vehicle was in the UK, not in the Isle of Man, when he agreed to buy it. The real significance of my comments about its registration in the Isle of Man was however that it had not been used for many years. It was also that Mr N agreed the purchase in the knowledge that work was needed and that he would take delivery at a later date. He has not disputed that. This was not a sale that was agreed on one day and completed shortly afterwards.

Mr N has provided further evidence of the vehicle's mileage. He makes the point that the mileage on delivery was not consistent with the van having been driven 20 miles from the MOT test centre before he collected it. It is of course possible that it was towed to and from the test centre, but I don't believe in any event that I can fairly conclude – as Mr N has invited me to – that no test took place.

I noted in my provisional decision (and I've repeated above) that the sale was slightly unusual, in that Mr N agreed to buy a vehicle which, to his knowledge, needed some work carried out. It would be some months before that work was complete and Mr N could collect the vehicle. And he did not buy it to use it routinely as a camper van – as further evidence by the insurance policy he took out, which limited cover to 2,000 miles a year.

It was for those reasons that I expressly invited Mr N in my provisional decision to provide further information about the sale agreement. He has however said only that the vehicle was provided as a working motor home and "… *It is obvious that this vehicle was supplied in breach of contract*…"

I am afraid that, in my view, it is far from obvious that there was a breach of contract here. Mr N has provided no documents from the point of sale which support his assertion that there was. There is no post-sale correspondence with the seller to support that statement either. As I indicated in my provisional decision, the issue here is the condition of the vehicle which Mr N bought when compared with what he agreed to buy. And there simply isn't enough evidence of the latter to allow me fairly to conclude that Mr N did not get what he agreed to buy. I note too that it was not until more than three years after the sale that Mr N raised any issue. So, evidence of the van's condition then does not necessarily show what its condition was at the point of sale.

For these reasons, I have not changed my view from that set out in my provisional decision.

My final decision

For these reasons, my final decision is that, to resolve Mr N's complaint in full, Barclays Bank UK PLC should pay him £300.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 6 October 2025.
Mike Ingram
Ombudsman