

## **The complaint**

Mr W complains that NewDay Ltd, trading as Aqua, didn't refund a payment he made using his credit card.

## **What happened**

Mr W arranged for a merchant – which I'll refer to as "D" – to undertake repairs to his van; in short, the diesel particulate filter ("DPF") was to be cleaned. The cost of the work was £1,198. Mr W paid a £250 deposit and then used his NewDay credit card to pay the remaining £948.

Shortly after the work had been completed, Mr W's van began to display the same amber warning light which had initially alerted him to a problem. Mr W contacted D, who then directed him to a garage for further inspection. The garage, who I'll call "V", said the van's DPF needed to be replaced.

Mr W instructed V to undertake the necessary repairs in replacing the DPF and so on, but he remained unhappy with D. He felt, in summary, that D ought to have known – or that it did know – that cleaning the DPF wouldn't resolve the issue. So, Mr W thought he'd paid for an unnecessary service; he then approached NewDay to help get his money back.

To assist Mr W, NewDay initially raised a chargeback – but this was successfully defended by the merchant, D. So, NewDay then considered its obligations under Section 75 of the Consumer Credit Act 1974 ("S75"). NewDay gathered evidence from Mr W and considered what had happened, but it ultimately didn't uphold the S75 claim. That's because it didn't think there was enough to show a breach of contract, or a misrepresentation, had occurred. NewDay did, though, accept that it could've provided Mr W with better service – for example, it didn't call back when it said it would – and it paid him £80 compensation to reflect the inconvenience.

Mr W remained unhappy, and he approached this Service for an independent review. An Investigator here considered what had happened; having done so, they didn't think NewDay needed to take any further action. They said:

- NewDay had reasonably decided not to pursue a chargeback following D's defence. In summary, D had shown that it had carried out the work Mr W had asked it to do; it showed too that he'd agreed to its terms and disclaimer. All of which meant a chargeback was unlikely to ever be successful.
- For S75, there wasn't enough persuasive evidence to conclude that a breach of contract had taken place. D had supplied the services it said it would – to clean the DPF – and, ultimately, there wasn't anything substantive to show that D would, or ought to, have known that the DPF needed replacing.
- Fundamentally, Mr W had received the service he'd paid for – and it couldn't be found that any works undertaken by D had caused, or aided, further issues with the DPF in his van.

- So, in conclusion, NewDay hadn't acted unreasonably in how it had dealt with either the chargeback or S75 claim.

Mr W disagreed, and he maintained his view that the cleaning work carried out by D hadn't been necessary. So, as no agreement has been reached, the complaint 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'll explain upfront that I haven't commented on each and every statement Mr W's made. Instead, I've focussed on what I deem to be the crux of the matter and the core of what's still in dispute. That's because our role is to be an informal service; I don't intend any discourtesy in my approach, it's simply to align with that purpose.

Broadly speaking, in scenarios like this, there are two main ways a customer can try to recover money. They can approach their bank or credit provider – like NewDay here – to attempt a chargeback, which is a voluntary process operated by the relevant card scheme (like Visa, or Mastercard); a customer can also ask that their bank or credit provider assess whether they have a valid claim under Section 75 of the Consumer Credit Act 1974. Here, NewDay considered both potential routes for Mr W; so, for ease, I'll address both aspects in turn.

### **Section 75**

When a person purchases goods or services using a credit card, S75 allows them – subject to certain conditions being met, which for the avoidance of doubt I'm satisfied they are here – to hold their credit card issuer liable for any breach of contract, or misrepresentation, by the supplier of the goods or services. A breach of contract occurs when one party to a contract fails to honour its contractual obligations to the other. Such obligations may be written into the contract, or they may be treated as included by the operation of certain laws.

In Mr W's scenario then, a breach of contract would occur if D failed to provide him with a product or service agreed in contract, or that it broke an implied term; and to make a finding of misrepresentation, I'd need to be satisfied that Mr W was told a false statement of fact that caused him to enter a contract he would not have entered into otherwise. Having reviewed what happened, while this will no doubt disappoint Mr W, I'm not persuaded there is sufficient evidence of either here.

To explain, in thinking about whether there's been a breach of contract, or misrepresentation, I've considered what was agreed between Mr W and D. As I understand it, the parties agreed that D would clean the DPF on Mr W's van and, as far as I can see, that's just what happened. There's no mention in any invoice, or other documentation I have available, of other work to be carried out; nor that D either said or implied that cleaning the DPF would guarantee to fix an issue, nor that D accepted liability for later issues. In effect then, I can be satisfied it carried out the work Mr W and D agreed it would.

The crux of Mr W's argument, though, is that the cleaning of the DPF wasn't necessary and D should've known this. He says diagnostic data from V revealed a fault code which showed there to be a crack in the DPF, that no amount of cleaning would resolve, and the same data should or would have been available to D. So, in turn, D shouldn't have proceeded with the DPF clean because it knew that wouldn't fix the issue.

I have sight of diagnostic data from both D and V, and both show there to be present fault codes; I noted too that it seems D ran another diagnostic test *after* cleaning the DPF – and no fault codes were found at all. That, in my view, likely undermines any issues being related to a persistent physical fault. Mr W looks to have signed some paperwork acknowledging that no fault codes were present and, in any event, broadly speaking, I also think it unlikely he'd have agreed to take the van back if it was still displaying problems. Fundamentally then, I don't think the evidence available to NewDay – *at the time it considered Mr W's claim* – allows me to reach the conclusion that it unfairly assessed the dispute. Instead, my view is that there was sufficient doubt over whether D did breach its contract with Mr W, or that it misrepresented anything to him.

I emphasise *at the time* because I know Mr W has, more recently, been trying to obtain – or has obtained – further information which he says supports his position. That's something he can continue to engage with NewDay about if he chooses, but overall here, for the reasons I've explained, I think NewDay reached a fair and reasonable outcome when assessing his S75 claim, based upon the information it had. Of course, if Mr W does indeed provide further information to NewDay then it should review that and engage with him appropriately.

### Chargeback

The chargeback process provides a way for the card issuer – in this case that's NewDay – to help a customer claim a full or partial refund of the amount they paid on their card, if certain things go wrong with what they've purchased. The process is mediated by the card scheme whose logo appears on the card in question; for Mr W, I understand this to be Mastercard. Card schemes set various rules covering things such as what sort of scenarios are eligible for a chargeback, the kind of evidence required, and how long a person has to submit one.

It is, generally speaking, good practice for a card issuer to attempt a chargeback where the right exists and there's a reasonable prospect of success. That said, they're not guaranteed to be successful, and a consumer isn't able to demand that their card issuer attempt one. A chargeback can be defended too; the party which received the payment – generally known as the 'merchant', which would be D here – can resist a chargeback attempt. If neither the consumer nor the merchant concedes then, ultimately, the card scheme itself can be asked to rule on the dispute in a process called arbitration.

NewDay did raise a chargeback here; it was defended by D, and NewDay then chose not to pursue things any further. I don't think that was an unreasonable decision. I say that largely because I don't think the chargeback had a reasonable prospect of success; D's robust defence incorporated evidence that it had undertaken and completed the work Mr W had asked it to do, as well as demonstrating how Mr W had signed its disclaimer, and showing that he'd taken the van back following the work with no fault codes present. On balance then, given the confines of the chargeback scheme, and the defence supplied by D, I don't think NewDay had much room for manoeuvre in taking things further here.

### Overall

In conclusion, I know what I've set out here will be disappointing for Mr W. It's clear that he feels very strongly about what happened. That said, for the reasons I've explained, I can't fairly conclude that NewDay acted unreasonably when it decided not to uphold Mr W's S75 claim, or proceed with the chargeback, in these circumstances. It follows that I don't uphold his complaint here.

### **My final decision**

My final decision is that I don't uphold Mr W's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 28 November 2025.

Simon Louth  
**Ombudsman**