

## The complaint

Mr T has complained that Clydesdale Financial Services Limited (trading as Barclays Partner Finance (BPF)) is holding him liable for a credit agreement that was taken to buy a new phone.

## What happened

The parties are familiar with the background details of this complaint – so, I'll only briefly summarise them here. It reflects my role of resolving disputes quickly with minimum formality.

In October 2025, Mr T ordered a new phone costing around £1,600 from a retailer, who I'll refer to as R. To help fund the purchase Mr T borrowed some money from BPF using a new fixed sum loan agreement. R appointed a courier, who I'll refer to as D, to deliver the device to Mr T's home address – which they delivered on 31 October 2025. But on opening the outer packaging and the inner box, Mr T says he found the phone was missing – it had been replaced by a metal disk. So, Mr T contacted R straight away to make them aware of the issue. Because R declined to send a replacement phone or provide any refund, Mr T asked BPF to raise a claim under the Consumer Credit Act 1974 (CCA).

BPF responded to Mr T's complaint by saying they were satisfied the phone had been inside its sealed box when it left R's warehouse due to weight checks. BPF also said the photographic evidence didn't show any tampering to the outer packaging and showed the 'rip tag' for the inner phone box had been intact. Unhappy with BPF's response, Mr T asked the Financial Ombudsman to consider the matter. Our Investigator didn't uphold the complaint. Mr T responded by saying, in summary, that:

- he reported the matter immediately to R and it's his understanding the phone still hasn't been activated.
- he believes the photographic evidence of him opening the received package showed the inner box didn't contain a phone, only a metal disk.
- the purpose of the metal disk was to fool any weight checks – which therefore can't be relied on as confirmation the phone was placed inside the inner box before it was sealed.
- BPF failed to carry out a physical inspection of the evidence including the packaging.
- That under CONC 7.14.1R, BPF should have suspended the monthly instalments that became due for the credit agreement until after the dispute had been resolved.
- That BPF disregarded the requirements of the Financial Conduct Authority's (FCA's) Consumer Duty by failing to act to prevent foreseeable mental and financial harm to a vulnerable consumer.

As Mr T didn't agree with the Investigator's findings the complaint has come to me to decide.

### **What I've decided and why**

I've considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

I want to acknowledge that I've summarised the events of the complaint. I don't intend any discourtesy by this – it just reflects the informal nature of our service. I want to assure Mr T and BPF that I've reviewed everything on file. And if I don't comment on something, it's not because I haven't considered it, it's because I've concentrated on what I think are the key issues. Our powers allow me to do this.

Mr T bought the device using a regulated fixed sum loan agreement, and our service is able to deal with complaints relating to these sorts of agreements.

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### **Breach of contract**

Mr T is alleging there was a breach of contract because R didn't supply the device he'd paid for, so it's unfair for BPF to hold him liable for the linked credit agreement.

I'm never going to know what happened to the device as the evidence is incomplete. BPF faced those same evidential challenges. Where the evidence is incomplete or inconclusive, I must reach my decision on the balance of probabilities.

Mr T has been consistent in his testimony, and I note he reported the matter soon after delivery. It's possible the device could have been removed at the warehouse or by the courier.

BPF asked R about how the phone would have been packaged and dispatched. R responded by saying the package wouldn't have left the warehouse empty due to the weight and pre dispatch checks it says it carries out and they received no report from D to say the package had been damaged or tampered with in transit.

BPF highlighted the photographic evidence showed there was no obvious signs of tampering to either the outer or inner packaging – with Mr T saying he didn't notice any. I appreciate Mr T thinks BPF should have carried out a physical inspection of the packaging, but I'm not persuaded this is the case. I think it's fair to say BPF was unlikely to have the facilities nor expertise to carry out a forensic examination – this is something the Police might do as part of an investigation. I'm also mindful Mr T hasn't indicated that he found anything untoward in relation to the packaging prior to him opening it or subsequently. In the circumstances, I

think it was unlikely a physical examination by BPF (or anyone else for that matter) would have provided any more information than was already known.

The evidence isn't conclusive, but I'd like to have been more certain about what happened. It's possible someone at the warehouse took the phone and replaced it with a metal disk of equivalent weight and was able to bypass the security. It's also possible the courier was able to take the device and repackage it in a different but similar looking bag with a reprinted label. However, the packaging shown by the photos was consistent with the packaging R uses and R said the weight of the package was as expected as well. So, I understand why BPF didn't think either of those scenarios were the most likely thing to have happened.

I'll never know for certain what did happen. If either the courier or someone at the warehouse has stolen the device these would comprise of very serious allegations. Unlike a court, I'm unable to summon witnesses for cross examination. And BPF would have faced similar hurdles. So, it's difficult to reach firm conclusions in the informal forum that I'm able to investigate this complaint.

I think BPF took account of all the available information before responding to Mr T's complaint. Overall, I don't think I've seen enough to safely conclude that BPF reached an unfair outcome when determining that, on balance, it was more likely than not that the phone was inside the box when it was delivered to Mr T. So, I'm unable to say BPF acted unfairly when not cancelling the linked credit agreement and requiring Mr T to pay the outstanding balance.

To be clear, it's not to say something definitely hasn't gone wrong but, on balance, I don't think BPF received enough evidence to show the device wasn't successfully delivered to Mr T. Mr T doesn't have to accept this decision. He's free to pursue the complaint by more formal means such as through the courts, where witnesses may be able to be called and cross examined.

### **Collection of the monthly instalments**

CONC 7.14.1R sets out that in certain circumstances, a firm must suspend any steps it takes, or its agent takes, in the recovery of a debt from a customer where the customer disputes the debt on valid grounds or what may be valid grounds. Valid grounds is defined as the individual being pursued for the debt is not the true borrower (or hirer) under the agreement in question; or the debt does not exist; or the amount of the debt being pursued is incorrect.

The dispute here is that Mr T says he didn't receive the phone he bought using the funds provided by the credit agreement – not that the debt doesn't exist. It's not in dispute that Mr T is the owner of the debt, and I've not seen anything to suggest the payments BPF asked Mr T to pay were incorrect. In the circumstances, I think it was fair for BPF to conclude the debt was valid and remained due. So, I'm not persuaded BPF acted unfairly when declining to suspend the collection of the monthly instalments.

It seems Mr T hasn't paid any of the monthly instalments that became due under the credit agreement, so it's my understanding BPF has reported the missed payments to the credit reference agencies. BPF is obliged to report this sort of financial information, and I've not seen anything which would lead me to conclude that what BPF has reported is inaccurate.

For the reasons I've explained above, I'm unable to say BPF acted unfairly when not cancelling the credit agreement linked to the phone and requiring Mr T to pay the outstanding balance. However, I'd remind BPF of the FCA's requirement for firms to treat

customers who are experiencing financial hardship with forbearance, due consideration and empathy.

### **FCA Consumer Duty**

Mr T is correct when saying one of the requirements under the FCA Consumer Duty is that firms must proactively act to avoid causing foreseeable harm to retail customers through actions or omissions across the product lifecycle. This requires identifying potential harms, mitigating risks, and acting in good faith. However, it's important to note that a business is unable to eliminate all risks and negative outcomes.

BPF had no way of knowing at the time Mr T applied for the credit agreement that there may be a problem with the delivery of the phone. Once BPF became aware of the issue, I think it's fair to say they investigated the matter in a timely manner without undue delay and kept Mr T informed about what was happening and the outcome.

Based on what I've seen, I'm satisfied BPF adhered to the relevant rules, regulations and guidelines. While I appreciate Mr T has strong feelings about what's happened and it's likely he'll be disappointed with my decision, I'm not going to direct BPF to take any further action in relation to this complaint.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 7 May 2026.

Carl Bibby  
**Ombudsman**