

The complaint

Mr B complains Barclays Bank UK PLC trading as Barclaycard failed to complete his Data Subject Access Request (DSAR) promptly or correctly.

What happened

I issued a provisional decision setting out what'd happened, and what I thought about that. I've copied the relevant elements of this below, and they form part of this final decision.

My understanding is Mr B originally contacted Barclaycard about a section 75 (s75) claim he wanted to make in June 2017. He says they handled the claim incorrectly at the time – and in March 2023 he realised after getting advice that they'd made an error.

As a consequence, he raised a DSAR with Barclaycard over the phone in order to get all of the information he needed to support his s75 claim – and also asked for all information he was entitled to. Part of the reason for needing to make the DSAR was because Barclaycard told Mr B his s75 claim was out of time, due to him not having raised the claim within six years of March 2023 – when he knew he had in June 2017. Mr B says he was told about a system called Triumph Barclaycard record their notes on – but he's not been provided with these specific notes. He's also unhappy with significant delays in completing the DSAR – and also that the first reply from Barclaycard said they couldn't find his details – when he'd been verified on the phone by one of their agents.

On 15 June 2023 Barclaycard said they understood Mr B's complaint was about his DSAR not being completed correctly and he'd faced multiple issues regarding this. They said they'd not been able to reach Mr B to submit a new DSAR and were sorry he'd been told they couldn't find his information when he called up initially. They credited his account with £50 to say sorry.

Unhappy with this, Mr B asked us to look into things. In February 2024, responding to our request for information, Barclaycard provided their file and said they couldn't see they'd ever received a DSAR request from Mr B. They said they can't process the request without taking it over the phone or if the customer processes it online themselves.

One of our Investigators considered Mr B's complaint, and overall felt Barclaycard had put matters right by paying the £50.

Mr B didn't accept this. He said our Investigator had dealt with the DSAR in the context of the s75 claim, but he'd have made a complaint solely about their failure to repeatedly complete a DSAR. Mr B felt we'd said Barclaycard didn't need to comply with General Data Protection Regulations (GDPR) because the s75 claim had been resolved. Mr B also said the £50 payment was for customer service delays – not due to a failure in completing the DSAR. Mr B said Barclaycard continue to withhold notes on their Triumph system, and some phone calls.

As Mr B didn't accept our Investigators outcome, the complaint was 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.

As a starting point, I should explain that Barclaycard are required to complete a DSAR in line with the Information Commissioner's Office (ICO) guidelines. These set out the expected time frames – one month for straightforward requests, up to three months if the request is complex – and when organisations might be able to withhold information. The ICO also talks about the acceptable methods for submitting a DSAR.

The evidence I have shows Mr B submitted the DSAR on 21 March 2023 over the phone. So, as a starting point, I'd have expected the DSAR to be completed by 21 April 2023.

Barclaycard wrote to Mr B – using an incorrect first name – and told him they couldn't locate his details. Mr B wasn't happy with this, saying the agent had to verify him on the call, so they really should have gone back to the agent to get the correct information. I think Mr B has a point here – as this doesn't seem like a particularly unreasonable step for Barclaycard to take.

After further contact Mr B has said he received a response to his DSAR on 12 May 2023 – but this didn't include everything he'd asked for – it only included a copy of his application form and statements. This clearly isn't good enough.

Barclaycard's email of 15 June 2023 says they know Mr B's had problems trying to get a DSAR through. They said they'd tried to reach him and could only put a request through for him on the phone – but he could do it online and gave him the web address. They said they were paying him £50 for the poor service and time taken to get this issue resolved.

Also on 15 June 2023 Barclaycard emailed Mr B asking for details regarding the calls to locate them – and said they'd be sending the calls on a CD. Barclaycard also said they might not have calls over 12 months old, so might not be able to provide them.

It shouldn't have been necessary for Mr B to set out when all of the calls he wanted had happened – Barclaycard should have systems in place to identify all the calls and proactively provide them. So, I was disappointed to see this request being made.

On 2 July 2023 (dated 2 June, but I think he means July as Mr B refers to letters dated 27 June and 1 July) Mr B provided the details asked for, but also said he'd spoken to the ICO who said Barclaycard should provide a copy of their policy stating they don't keep calls over 12 months old. Mr B also asked Barclaycard to provide the information in a larger font due to his eyesight.

Another DSAR was finalised on 31 July 2023 – and I can see Barclaycard emailed Mr B to access this.

On 14 August 2023, Mr B contacted Barclaycard again, and said only transcripts of calls were provided, none on CD as promised. They also hadn't provided some of the calls for the current year, or the notes from the Triumph system – and nothing about his s75 disputes either. In addition, Barclaycard didn't provide the documents in a larger font, so he felt they were discriminating against him and that they'd breached The Equality Act 2010.

I've seen a copy of this DSAR – it's not in large print, doesn't include calls on a CD as Barclaycard said they would send – but instead it's in standard print and includes transcripts. Barclaycard's covering letter says they're trialling a new system, so there might be errors in

this while they work out the bugs in the new system. And reading through the transcripts, there are lots of errors in them.

I think this is disappointing for Mr B – given his comments to Barclaycard about his poor eyesight and that he likes to read things in size 14 font. I can't make a finding he's been discriminated against as he's said, because only a court can do that. But I don't think Barclaycard have treated him fairly. They have decided not to send calls on a CD as they said they would – and instead sent a transcript in standard size print to someone who they know has poor eyesight – and this transcript includes lots of mistakes. I find this incredibly disappointing by Barclaycard.

In November 2023 Mr B contacts our service – says he's received lots of calls now, but some are still missing from the last 12 months. He also said the account notes from Triumph are missing, and he had concerns some of the calls cut off, had been edited and that they'd re-labelled the calls making it hard to identify each call.

Given the above timeline, I think it's reasonable for me to say Mr B has been constantly frustrated in his efforts to receive everything he's seemingly entitled to under a DSAR. This should be a simple request. I also think he's been treated unfairly by Barclaycard in not taking account his needs to send information in a larger font – and by sending that information in the first place when it should have been sent by CD.

Putting things right

I think there are two things here which needs to be resolved:

- *Barclaycard to provide the information Mr B has asked for – or explain why they can't / won't do so*
- *Compensation*

In respect of providing the information, notes on an internal system would appear to be something they can supply – as should phone calls that occurred within the last 12 months. But I can't ignore that the ICO does allow organisations to, at times, not provide information.

If Barclaycard replies to this decision and explains the reason(s) they've not provided some of the information is due to these exemptions, then I won't be able to decide if that's fair or not. This would also extend to Mr B's concerns that some of the calls are edited or cut short – again, not something I can decide. The key reason for that is if Barclaycard tell me they've provided everything they're required to do, and referred to the ICO exemptions, then it'd be for the ICO to decide whether Barclaycard have done this correctly.

In those circumstances, Mr B would need to make a complaint to the ICO.

In the absence of Barclaycard saying they can't do something; I'm going to require them to confirm they can complete all of the outstanding requirements. To help them understand what is outstanding, I've asked our Investigator to provide a copy of the letter dated 2 June 2023 (which I think is meant to be 2 July 2023) and the email Mr B sent us on 8 November 2023. Barclaycard can compare Mr B's original request set out in the first letter and his comments in the November email – to the information they've sent him. From this, they should be able to work out what precisely is outstanding and send it to Mr B.

I'm also going to put a timeframe of Barclaycard confirming whether they'll complete the outstanding requirements – given the request was first made on 21 March 2023.

I expect them to confirm they can and will complete the DSAR in full by the date their response is also due in the provisional decision. In the circumstances, that gives them two full weeks to determine what they're going to be able to provide, and anything they say they're not going to provide – or can't – might be something Mr B wants to take up with the ICO.

Ideally, I'd also like the DSAR completed within two weeks – so Mr B has received all the information before I issue my final decision. But as I don't yet know what Barclaycard may say in response to this decision, I'll resist placing a hard deadline on fully satisfying the DSAR / explaining why they can't, for the moment.

I will though remind Barclaycard Mr B needs a size 14 font – so anything they send him in paper form should be in that size – or they'll need to explain why it can't be.

Turning now to compensation – I think Mr B has had a completely unnecessary and extraordinarily challenging time. I find it extremely disappointing Mr B has made so many requests, and been clear in what he wants, which hasn't been fulfilled by Barclaycard. The matter has been ongoing for around 20 months at this point – which is obviously far too long.

For all of the aggravation I think Mr B has been put to, over an extended period of time, I'm currently thinking of awarding him £500.

Responses to my decision

Mr B replied and accepted my provisional decision – saying it is the Triumph notes and calls he'd like.

Barclaycard replied and didn't. In summary they said:

- It's not correct for me to say Barclaycard should know what calls to pull and have systems in place to do that. They said when someone requests a DSAR they must advise exactly what they're after – whether that's all calls and notes, or a specific call then they should advise the date and time of that call.
- They explained some calls and notes may have been purged off their system due to the time that's passed.
- In addition, they don't keep 'all' calls, sometimes calls get purged for space saving reasons.
- The agent replying said he had no control over what the DSAR team may come back with, and he suggested being as specific as possible for the data required – as he can only access them by an online form. He said he'd be shocked if anything had been excluded on purpose.
- The agent also asked how we know what information was missing – as in, have I seen the DSAR, or are we relying on Mr B being correct in what he's saying.

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 address each of Barclaycard's points in turn.

Barclaycard are technically right – in that when someone makes a DSAR they're supposed to be as specific as possible as that'll help the organisation find the information. But, in Mr B's case, he asked for all information – in those circumstances he shouldn't have to be

specific about the dates and times of calls – because by asking for all information, he wants all calls. So, it's for that reason I think it's disappointing Barclaycard asked him to clarify his request. In line with the ICO guidance, Mr B was allowed to ask for 'all' information – rather than being specific.

I do completely accept given the time that's passed some calls and notes may no longer be available. The key issue here is that Barclaycard need to explain that very clearly to Mr B so he's aware of what they're not providing and why. If Mr B then wants to, he can raise his concerns with the ICO.

I understand the person we're dealing with isn't someone who has control over the DSAR process – so I thank him for managing expectations. But, equally, I think this is what Mr B wants. He'd either like all of the information he's asked for – or an explanation of why that specific information hasn't been provided.

In terms of what he wants, those are set out in the letters we've provided to Barclaycard as part of this process. So, I'm satisfied Barclaycard should be aware of the remaining information Mr B hasn't received.

Finally, in respect of whether I've seen the DSAR I have seen one DSAR which didn't include any calls or Triumph notes. But given the time that's passed I've no reason to doubt Mr B's comments that he didn't receive everything he's asked for in his latest DSAR.

Given all of the delays up to this point, I'm going to make it a requirement for Barclaycard to process a DSAR. Mr B has confirmed the letter dated 2 June 2023, and email to our service 8 November 2023, represent the information he's asking for / is missing. So, Barclaycard can use those documents as the basis for the DSAR – as they were provided with them recently.

I think it's important for Barclaycard to adhere to the ICO timeframes for processing a DSAR, and I'll say those timeframes start once we've told them that Mr B accepts this decision (assuming he does). We'll confirm this to Mr B on the same day.

If Mr B has further concerns about the timeframe of Barclaycard completing the DSAR, then that would potentially be a new complaint. If he has concerns over the information provided, then as I've explained that may be something he'd want to discuss with the ICO.

My final decision

I uphold this complaint and require Barclays Bank UK PLC trading as Barclaycard to:

- Complete the DSAR request in full – whether that's providing all the information, or all the information they feel they can and explaining why they can't provide the rest
- Pay Mr B an additional £500

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 13 January 2025.

Jon Pearce
Ombudsman