

The complaint

Mrs T is complaining about the way Barclays Bank UK PLC handled a chargeback claim she made on her Barclays credit card (Barclaycard).

What happened

In September 2019 Mrs T paid a £300 deposit for a trip for her daughter and daughter's partner. She paid the deposit on her Barclaycard. The trip was provided by a supplier who I shall refer to as M. The trip was to attend a festival that I shall refer to as S. In November 2019 Mrs T paid the remaining balance of £1,769 using her Barclaycard again.

Due to the impact of Covid-19 S was cancelled. So M contacted Mrs T's daughter giving her the following options:

1. delay the package to the following year;
2. request a refund of the amount paid; or
3. Move the booking so another S festival in a different country.

Mrs T says her daughter chose to request a refund, but she says M incorrectly recorded that she'd asked to receive a voucher to use towards the 2021 S festival. And she says she's found an online forum which set out that many other people had experienced the same issue. Mrs T's daughter raised this with M at first, but was unhappy with the response. So Mrs T raised a dispute with Barclays and asked it to refund the amount she paid.

In June 2020 Barclays processed a chargeback for both payments Mrs T made and temporarily credited the amount back onto the card.

In September 2020 Mrs T contacted Barclays to get an update on her claim and she was told that the claim had been successful and that both credits would become permanent.

Following this, Mrs T withdrew the remaining credit on her account. However in November 2020 she noticed that Barclays had reversed the credit and said she owed £1,769. She complained to Barclays who acknowledged it had given incorrect information and offered her £100 in compensation. But it said she owed the £1,769, however it said it would give her a four month interest free period to pay it back.

Mrs T still didn't think she owed this money as she said Barclays had told her it had made the credit permanent. So she didn't think it fair that it subsequently reversed the credit. And she asked this service to review her complaint.

Since referring her complaint to us, Mrs T told us that her daughter had now used the voucher for a ski trip but had to buy flights at an additional expense.

I issued a provisional partially upholding this complaint and I said the following:

" There are two issues I need to consider here:

1. Was it fair for Barclays to reclaim the money it initially credited onto the credit card; and
2. The customer service given to Mrs T.

Handling of the transaction dispute

Mrs T disputed two transactions on her credit card which she wanted Barclays to refund. Barclays needed to consider whether a refund was payable under two means:

1. Section 75 of the Consumer Credit Act 1974; and
2. Chargeback.

I shall consider each point separately.

Section 75

Mrs T paid for festival package on her Barclay's credit card. Section 75 sets out that in certain circumstances, as the finance provider, Barclays is jointly liable for any breach of contract or misrepresentation by the supplier – in this case M.

But, as I said above, in order for S75 to apply, there are certain criteria that need to be satisfied – one of which is establishing a debtor-creditor-supplier agreement (DCS) between the parties. In essence, the key here is that it's the debtor who is entitled to make a claim against the creditor, and their claim against the creditor is the same as their claim against the supplier. So, if the debtor doesn't have a claim themselves against the supplier, they can't hold the creditor liable for any breach of contract with the supplier.

Mrs T paid for the festival package with her Barclaycard, so there is a contractual relationship between her and Barclays. But the contract with M was between M and her daughter. Mrs T didn't have a contractual relationship with M, so she didn't have a claim herself. So Barclays isn't liable under Section 75 for any breach of contract by M.

Chargeback

Chargeback is the process by which a bank or credit card provider look to resolve a settlement between a consumer and a merchant under the relevant card scheme. Initially the card provider will temporarily refund the payment back onto the card account and will raise a dispute with the merchant. The merchant is then required to respond within a prescribed period of time with any further information it wishes to provide and set out why it thinks the chargeback shouldn't go through. If the chargeback is defended, then the temporary refund is returned to the merchant. The rules under which the chargeback can be pursued are strict and are set out by the individual card scheme provider. In this case the card provider was VISA.

The chargeback process can potentially go through three stages. It's ultimately at the discretion of the bank how and if to pursue the chargeback. But it must exercise this discretion fairly and reasonably and with a good consideration of the evidence it has available – both provided by the consumer and information readily available in the public domain:

1. *The bank will initially process a chargeback granting the temporary refund and present the claim to the merchant. The merchant then has a number of days to defend the claim or accept it. If the merchant doesn't defend the claim, the temporary credit becomes permanent. However, if the merchant does defend the claim, it's for the bank to decide whether to continue to pursue the claim to the next stage. In doing so, it may decide to request more information from the consumer, or it may decide it has enough information*

to make an informed decision. The bank will consider the merchant's response and consider whether the defence provided was a fair defence under the card scheme rules. If it does think as such, it may choose to not continue with the claim, at which point it will reverse the temporary credit.

2. However, if the bank decides there is still reasonable prospects of success, it will move to the second stage of chargeback – pre-arbitration. It will then represent the claim, setting out why it didn't agree with the merchant's defence and it may provide further evidence in support of the claim. As before, the merchant has a period of time to defend the claim. If the merchant defends the claim again, the bank will consider whether it should pursue the claim to the final stage – arbitration – or to close it.
3. Arbitration involves the card scheme provider reviewing the evidence and deciding the fair outcome to the claim.

In this case, Mrs T's claim went to pre-arbitration. Barclays initially raised a chargeback on both transactions and the merchant defended both transactions. Barclays then presented the claim again, but this time, in August 2020, the merchant only defended the transaction for £1,769. And it said that Mrs T's daughter had received a voucher for the amount paid as she'd chosen to delay the date to the following year as opposed to receiving a refund. But it didn't defend the £300 transaction.

Due to the costs in doing so, a bank can be out of pocket when a claim goes to arbitration and is unsuccessful. So, with this in mind, banks are entitled to consider whether a claim has reasonable prospects of success in deciding whether to proceed to arbitration or not. Barclays has said it wasn't willing to incur the expense of pursuing the claim through arbitration because it didn't think there were reasonable prospects of success in this case. It was of the opinion that M has reasonably shown that Mrs T's daughter had accepted a resolution to the dispute. It said that M could set out as a valid defence that the service was still available and the consumer had accepted the change of date.

I understand Mrs T's viewpoint on the fairness of this, but I don't think I can say Barclays' decision in respect to the prospects of success was unreasonable here. I acknowledge Mrs T has provided online statements from people who've had similar issues. But I don't think it was unreasonable for Barclays to say this isn't evidence Mrs T's daughter asked for a refund. And I think it was fair for Barclays to take the evidence provided by M into consideration which suggested that, on balance, Mrs T's daughter had accepted to postpone to the following year. So, taking everything into consideration, I don't think it was unreasonable to not take the claim to arbitration.

However, I acknowledge Barclays didn't tell Mrs T the claim wasn't successful for three months after M had defended the claim. Mrs T has queried what's the time limit for a bank to inform her it was going to reverse the credit. However, there is no definitive timeframe for when a bank must update a consumer. But I would expect a bank to inform its customer of the outcome of the claim as soon as reasonably possible. And I don't think three months is fair – especially given Mrs T asked for an update in September 2020. However, the fact there was a delay doesn't mean Barclays isn't able to reverse the credit. And it's entitled to ask Mrs T to repay the £1,769.

Customer service

However, while I think Barclays is entitled to, require Mrs T to repay the £1,769, I do think it has caused her some avoidable distress and inconvenience. I can see Barclays incorrectly told Mrs T on two occasions – firstly on the telephone and then again in writing – that the chargeback was successful and the credit had been made permanent. I acknowledge this was an error and likely to have arisen because M didn't defend the £300 transaction. But Mrs T reasonably relied upon what Barclays told her and credited the money back to her

bank account and I understand in turn she refunded her daughter. It then took Barclays nearly three months to correct its mistake.

I note Barclays has offered £100 in compensation for the distress and inconvenience it's caused, but I don't think this is sufficient. I think Mrs T has suffered more than minor distress and inconvenience in trying to put this right. And I think £300 is a fairer amount of compensation."

Barclays responded to accept my provisional decision. Mrs T said Barclays told her it had refunded the amount in full and final settlement of the claim, so queried how it could subsequently reverse that.

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've considered Mrs T's additional comment, but I've come to the same conclusion as I did in my provisional decision.

I've re-read the letter Barclays said in September 2020. Barclays didn't say the money was paid in full and final settlement, but said *"the credit will remain on your account because we now consider this matter to be closed."* As I said in my provisional decision, I can understand why Mrs T was unhappy to later learn about Barclays mistake. But it was a mistake and I don't think I can reasonably say Barclays is bound by this. And, for the reasons I set out in my provisional decision, I don't think I can reasonably require Barclays to cover this loss.

My final decision

For the reasons I've set out above, it's my final decision that I partially uphold this complaint and I require Barclays Bank UK PLC to pay Mrs T a further £200 in compensation – in addition to the £100 it previously offered. I don't award anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T to accept or reject my decision before 29 September 2022.

Guy Mitchell

Ombudsman