

The complaint

A company, which I will refer to as P, complains that Barclays Bank Plc (trading as Barclaycard) has unfairly held it liable for chargebacks.

What happened

Barclaycard told us:

- In 2021, P entered into a merchant acquiring contract with Barclaycard, allowing P to take payments by plastic card. P was given a copy of the relevant terms and conditions.
- In December 2023, P processed two transactions, for £850.00 and £1,669.00, that were later disputed by the cardholder.
- P provided some information in an attempt to defend the chargebacks, and Barclaycard sent that information to the card issuer. The cardholders continued to dispute the transactions, and ultimately those disputes were settled in favour of the cardholders. That meant P needed to repay the amounts of £850.00 and £1,669.00 to Barclaycard.
- There were two further chargebacks, for £850.00 and £1,095.00, which were also decided in the cardholders' favour after the cardholders said they had not authorised the payments. That meant P was liable to repay transactions totalling £4,464.00, all of which were done on a Card Not Present (CNP) basis.
- P cancelled its direct debit instruction to avoid the chargebacks being debited. That action contravened Barclaycard's Terms and Conditions, and meant Barclaycard was unable to collect its full monthly charges from April 2024 to September 2024. Any outstanding debt may be registered with VISA's National Merchant Alert Service (NMAS), MasterCard's Member Alert to Control High Risk (MATCH), and credit reference agencies.
- Overall, it is satisfied that the chargebacks were valid and processed under the terms of its agreement with P. The chargebacks were decided on the basis of the card scheme rules, and not on the merits of any dispute between the cardholder and P.

One of our investigators looked at this complaint, but she did not uphold it. She said:

- She was satisfied that Barclaycard had made P aware of the risks associated with CNP transactions. This was covered in the terms and conditions provided to P when it entered into the contract with Barclaycard, and further details were given in Barclaycard's Merchant Procedure Guide. That guide explicitly said that goods being collected should not be released on the basis of a CNP transaction, but it appeared that P had allowed goods to be collected.

- Barclaycard is right to say that chargebacks are decided on the basis of the card scheme's rules, not on the merits of any dispute between the cardholder and the merchant. Our role here is to decide whether Barclaycard acted fairly in relation to the chargeback process, and she was satisfied that it did. The cardholders said they were not party to the transactions and did not give permission for their cards to be used, which meant that Barclaycard had no defence under the card scheme rules. P is therefore liable for the chargebacks.

P's representatives did not accept our investigator's conclusions. They said:

- They were never made aware of any pitfalls associated with CNP transactions, and they were never given a leaflet or any other written information on how to act in the case of fraud.
- Banks should give small businesses a full explanation as to how to conduct card payments, but Barclaycard did not do so here.
- They have discovered that banks only refund a tiny percentage of the amount that small businesses lose to fraud, and they consider that the banks are washing their hands of fraudulent transactions. Barclaycard is glad to take P's money in respect of sales, but abdicates any responsibility in the case of fraud.

Our investigator was unable to resolve P's complaint informally, so it was passed to me for review.

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.

Having done so, whilst I am sorry to further disappoint P's representatives there is very little I can add to what our investigator has already said. I have reached the same conclusions as she did, for broadly the same reasons. I explain further below.

Barclaycard has provided us with a copy of its 1 December 2019 "Merchant terms and conditions" (which applied when P's account was opened), as well as with a copy of its May 2023 "Merchant terms and conditions for merchant acquiring services" (which it says it gave to P at a later date). Both documents make clear that in the event of a successful chargeback, it is the merchant and not Barclaycard who will be liable. Barclaycard's role here is to apply the rules of the relevant card scheme (for example VISA or Mastercard), and those rules say that cardholders will not be liable if their cards are used without their permission.

I acknowledge that P's representative does not recall receiving a copy of the terms and conditions at any point. On balance, I think it is likely that Barclaycard did provide P with a copy when the account was opened – I say that because I think P's officers would have been surprised if the account had been opened without any documentation. But even if that is not the case, I am satisfied that P's officers would have known that Barclaycard would not have processed any transactions for P without an agreement in place. I am also satisfied that Barclaycard would have provided the terms to P at any time if P had explicitly asked for them, and that they were available on Barclaycard's website. In the circumstances, I therefore consider that both Barclaycard and P were bound by Barclaycard's terms.

Barclaycard also published a procedure guide, available on its website, which made clear that CNP transactions carried additional risks – and explicitly said that authorisation does not

guarantee payment. Authorisation only confirms that there are enough funds available in the account, and that the card has not been reported as lost or stolen. Barclaycard explains in its guide that it cannot guarantee that the person presenting the card is the genuine cardholder, and so the merchant may be at risk of chargebacks following fraudulent transactions. It also explains that merchants should not allow cardholders to pick up goods paid for with CNP transactions – if a cardholder does wish to collect goods in person, the merchant should cancel the CNP transaction and carry out a new Card Present transaction.

I acknowledge that P's representatives say that P has not done anything wrong, and that they believe Barclaycard is abdicating its responsibility for fraud. But I don't think Barclaycard has done anything wrong here. All Barclaycard did was process transactions that were entered into a terminal. I think Barclaycard is right to say that it cannot guarantee that a person presenting a card has the authority to do so; I can think of no way for Barclaycard to investigate that issue.

In my view, the people at fault here are the people who used the cards in question (who do not appear to have been the actual cardholders). If it were possible for P to find the people who used the cards, then it might also be possible for P to sue them for the amount of the chargebacks. But it seems very unlikely that the people who used the cards can be found, which means that somebody else must bear the loss. I understand that P's position is that Barclaycard should pay, but that is not what the agreement between P and Barclaycard says about chargebacks following disputed CNP transactions.

I don't think there is anything unusual about Barclaycard's terms. I am not aware of any merchant acquirer which accepts liability for chargebacks following CNP transactions in these circumstances. I acknowledge that P's representative thinks that Barclaycard should take a different position, but in this case I don't think it would be fair for me to simply set aside Barclaycard's terms and conditions.

I have noted P's representative's wider concerns about the risks associated with CNP transactions and fraud, but I cannot address those issues in any detail. As an ombudsman – and not a regulator – my role is limited to determining the individual complaint that has been referred to me.

Overall, I see no basis on which I could fairly hold Barclaycard liable for the transactions at the centre of this dispute. I acknowledge that P's representatives disagree strongly, but I am satisfied that Barclaycard acted fairly when it asked P to repay the amount of the chargebacks. That means I can't order Barclaycard to take any action, nor can I order it to pay any compensation.

My final decision

My final decision is that I do not uphold this complaint against Barclays Bank Plc (trading as Barclaycard).

Under the rules of the Financial Ombudsman Service, I'm required to ask P to accept or reject my decision before 19 March 2025.

Laura Colman
Ombudsman