

The complaint

Mr S complains that Barclays Bank UK PLC (trading under its Barclaycard brand) will not make good the losses he incurred when a credit card payment was declined.

What happened

In March 2023 Mr S booked flights through an online booking agent, which I'll refer to as "C". He made the necessary payment of £1,414.38 using his Barclaycard and the flights were confirmed.

Shortly afterwards, Mr S found out that it would not be possible for him to fly on the dates he had booked. The terms of the booking meant that he could only change the dates if he paid an additional fee. He contacted C to make the necessary changes. C agreed to change the booking and sent Mr S by email confirmation of the changes and a payment link. (In fact, C appears to have sent three emails, each with a different price for the changes to the booking. That does not affect my overall findings, however.)

Mr S tried to make the payment on several occasions, but the it was declined. Mr S contacted Barclaycard, but he was told that there did not appear to be any reason why payment could not be made. His card was not, for example, restricted or blocked. Mr S says that he tried to make payment using cards issued by two other, different, providers, but that too was not successful.

The booking was not refundable. Because he was unable to make payment for the changes that had been agreed or to cancel the booking, Mr S had to re-book his flights and pay again.

Mr S referred the matter to Barclaycard. It said it was unable to assist, because the flights he had booked were not refundable. Mr S was not entitled to a refund or any compensation. Mr S continued to pursue the matter with Barclaycard, seeking confirmation of the reason the card payment had been refused, even though he had been able to pay for the initial booking. He also lodged a complaint with this service. After several lengthy exchanges, Barclaycard indicated that the card scheme, VISA, was responsible. The payment had not been processed because C is based in the USA, so did not operate under the same security protocols as EU or UK providers.

One of our investigators considered Mr S's complaint, and primarily whether Barclaycard had treated Mr S fairly when he had made a claim under section 75 of the Consumer Credit Act 1974 ("section 75"). She issued a preliminary assessment in which she concluded that Barclaycard had not acted unfairly. Mr S did not accept that assessment and asked that an ombudsman review the case.

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.

Mr S's submissions and arguments have been detailed and quite lengthy. In part, that is because he feels that Barclaycard has not addressed those arguments with sufficient rigour, so that he has had to explain his position more than once.

In keeping with the role of the Financial Ombudsman Service as an informal dispute resolution service, my own comments will focus on what I consider to be the main points that need addressing. I can assure the parties, however, that I have considered all the evidence and arguments in detail.

I shall consider first of all the reasons for the payment being declined. I note that Barclaycard's terms and conditions allow it to refuse to authorise a transaction in certain circumstances. Those reasons include where Barclaycard considers it reasonably necessary to protect an account. That could, I think, include a situation where a merchant taking payment does not fully comply with VISA's verification rules.

I note that it was not until August 2024 – nearly 18 months after the payment was declined – that Barclaycard suggested that this was the reason it was unsuccessful. By that time, it said, the evidence supporting that position was no longer available. I can understand why Mr S finds that frustrating. However, I do believe, on balance, that the payment was declined because of an issue with the verification process. I believe too that it is likely that this was down to VISA, rather than Barclaycard. I say that because there is no indication in any of the evidence which Barclaycard submitted that it had any concerns with the payment and because Mr S tried unsuccessfully to use two different cards to complete the payment.

Barclaycard's terms say too that, if it refuses a transaction, the cardholder can get in touch to find out why. That does not mean of course that Barclaycard will always be able to say why a payment has not been made.

As I have indicated, I do not believe that Barclaycard did refuse the transaction here. But, where it does refuse a transaction, the terms also say that Barclaycard won't be responsible for any loss or damages caused as a result. So, even if I thought that it had refused to allow the payment, it's unlikely I would conclude that Barclaycard should cover the losses Mr S has claimed.

Mr S has argued that VISA and Barclaycard are, in effect, a partnership, such that they are jointly and severally liable for each other's actions. I am afraid I do not believe that to be the case. Mr S's credit card agreement is with Barclaycard alone. Barclaycard is a member of the VISA card scheme and is subject to its rules, but that does not mean that the two are partners in any legal sense. But, even if I were to take a different view, it would arguably follow that the term which says that Barclaycard is not responsible for losses arising from a refusal of a transaction would equally protect VISA.

I turn then to section 75. One effect of section 75 is that, subject to certain conditions, an individual who uses a credit card to pay for goods or services and who has a claim for breach of contract or misrepresentation against the supplier of those goods or services has a like claim against the credit card provider. The necessary relationships between Barclaycard, C and Mr S are present in this case, and the transaction falls within the relevant financial parameters. I have therefore considered Mr S's dealings with C.

C is an online booking agent. It does not provide flights, but arranges bookings and takes payments which it then passes to airlines and other providers of services (no doubt after taking its own commission).

Barclaycard appears to have approached the section 75 claim on the basis that Mr S's claim against C was that it did not cancel the booking or did not provide a refund, or a combination

of the two. Since the flights were not refundable, any such claim was most unlikely to succeed. But my understanding of the claim is that, by not being in a position to take payment from Mr S to enable him to change the booking, C broke its agreement with him. As I have summarised, taking payments was a key part of C's activity as a booking agent. I can see why Mr S might take the view that C would be in breach of contract if it did not take a payment and did not therefore make the necessary changes to his booking.

However, C's terms and conditions included:

"A reservation is not complete until confirmed/ticketed. To protect our customers, we verify with the credit/debit card company that the billing address and credit card verification number you provided to us is accurate and that your debit/charge will be accepted. Until such information is verified, the fare is subject to change. We are not responsible for any transaction that is declined based upon a credit/debit card that is declined by the issuing company or a travel provider or if, for any reason, the debit/credit card billing address and/or credit card verification number cannot be verified in a timely manner, nor are we responsible for any changes in fare or any other charges that may occur during our verification process."

That is, C sought to exclude liability where a card payment was declined. In the circumstances, I do not believe I can reasonably conclude that Barclaycard should have provided a refund.

It is not for me to say whether Mr S does in fact have a claim against C. Nor is it for me to decide whether he has a claim against Barclaycard under section 75. What I must do is decide what I consider to be a fair resolution of Mr S's complaint about Barclaycard's decision to decline his claim. In the circumstances, I think it was reasonable of Barclaycard to decline Mr B's claim under section 75, albeit for slightly different reasons from those it gave.

My final decision

For these reasons, my final decision is that I do not uphold Mr S's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 20 January 2025.

Mike Ingram
Ombudsman