

The complaint

Miss C has complained that Barclays Bank UK Plc, trading as Barclaycard ('Barclaycard'), unfairly turned down her claims made under provisions of the Consumer Credit Act 1974 ('the CCA').

What happened

On 3 June 2003, Miss C purchased a trial holiday club membership from a business I will call 'Business 1', giving her three weeks of holiday accommodation to use over a period of 34 months (the 'First Purchase Agreement').

On 25 March 2004, Miss C purchased another holiday club membership with a different business I'll call 'Business 2'. This contract gave Miss C the right to stay in accommodation during what Business 2 called "Blue" season (the 'Second Purchase Agreement'). This cost £4,025 but Miss C ended up paying £2,450 and the balance of £1,575 was funded through the trade-in of the trial membership. This payment went to an entity I'll call 'Trustee F'.

On 10 December 2004, Miss C traded her membership with Business 2 for a membership with a business I'll call 'Business 3'. This purchase was not funded using her Barclaycard credit card.

Miss C made these purchases with her partner, who is now deceased. As Miss C raised the claims and complaint, I will only refer to her throughout my decision.

Miss C, using a professional representative (the 'PR'), raised a claim Section 75 of the CCA on 25 November 2020 to claim the monies paid in 2003. The PR said that Business 3 had misrepresented the membership for the following reasons:

- It would be exclusive and offer Miss C cheaper and higher quality holidays, but this was untrue as the holidays she received were of a lower standard.
- The membership would increase in value, when that was untrue.

The PR chased Barclaycard for a response on 10 March 2021.

Barclaycard rejected the s.75 claim on 2 June 2021, saying that the claim about the Second Purchase Agreement was raised too late, so it was time-barred. It was silent on the claim about the First Purchase Agreement.

The PR does not appear to have taken any further action until 3 February 2023, when it raised a new claim under s.75 CCA. It sent this by email to the wrong business. The claim refers to both Purchase Agreements and explains that these were both misrepresented to Miss C for the following reasons:

- Miss C was told she would receive luxury holidays, but this turned out to be untrue.
- The memberships were investments which could later be sold for a profit.
- The maintenance fees increased at a greater rate than what she was told.

- Business 1 and Business 2 breached the General Prohibition under Section 19 of the Financial Services and Markets Act 2000 (FSMA).

The PR sent further correspondence to the same wrong business to chase for a response from March 2024 until August 2024.

On 22 August 2024, Barclaycard issued its final response letter to Miss C. Barclaycard reiterated the outcome it gave in June 2021 and rejected the complaint about the handling of the claims about both purchases.

Unhappy with this response, the PR, on behalf of Miss C, raised a complaint with the Financial Ombudsman Service on 18 November 2024.

One of our investigators considered Miss C's complaint and did not think that Barclaycard needed to do anything further. She thought this because Miss C's card payment was made in favour of Trustee F and not to Business 1 or Business 2. So, she concluded that the provisions of the CCA to which the PR referred did not operate in the way the PR argued.

The PR disagreed with the Investigator's assessment and asked for an Ombudsman's decision – which is why it was passed to me.

On 30 June 2025, I issued a provisional decision to both parties rejecting Miss C's complaint, in which I said the following:

The legal and regulatory context

When deciding complaints, I am required by DISP 3.6.4 R of the FCA Handbook to take into account:

“(1) relevant:

- (a) Laws and regulations;*
- (b) Regulators' rules, guidance and standards;*
- (c) Codes of practice; and*

(2) (where appropriate) what [the ombudsman] considers to have been good industry practice at the relevant time.”

The PR brought a claim on Miss C's behalf under Section 75 of the CCA, but I think some of the issues it raised don't fit neatly into such a claim. So, I have also considered a complaint about both purchases under Section 140A CCA.

I think it is helpful to set out the relevant legal provisions.

s.75(1) CCA states:

“If the debtor under a debtor-creditor-supplier agreement falling within section 12(b) or (c) has, in relation to a transaction financed by the agreement, any claim against the supplier in respect of a misrepresentation or breach of contract, he shall have a like claim against the creditor, who, with the supplier, shall accordingly be jointly and severally liable to the debtor”.

s.12(b) CCA states that a debtor-creditor-supplier ('D-C-S') agreement is a regulated consumer credit agreement being:

“a restricted-use credit agreement which falls within section 11(1)(b) and is made by the creditor under pre-existing arrangements, or in contemplation of future arrangements, between herself and the supplier”.

s.140A CCA states:

“(1) The court may make an order under section 140B in connection with a credit agreement if it determines that the relationship between the creditor and the debtor arising out of the agreement (or the agreement taken with any related agreement) is unfair to the debtor because of one or more of the following –

- (a) Any of the terms of the agreement or of any related agreement;*
- (b) The way in which the creditor has exercised or enforced any of her rights under the agreement or any related agreement;*
- (c) Any other thing done (or not done) by, or on behalf of, the creditor (either before or after the making of the agreement or any related agreement).*

(2) In deciding whether to make a determination under this section the court shall have regard to all matters it thinks relevant (including matters relating to the creditor and matters relating to the debtor).

(3) For the purposes of this section the court shall (except to the extent that it is not appropriate to do so) treat anything done (or not done) by, or on behalf of, or in relation to, an associate or a former associate of the creditor as if done (or not done) by, or on behalf of, or in relation to, the creditor.”

Section 140C CCA says that the reference in s.140A CCA to a ‘related agreement’ include a linked transaction in relation to the main agreement, which is defined in s.19 CCA as:

“(1) A transaction entered into by the debtor or hirer, or a relative of his, with any other person (“the other party”), except one for the provision of security, is a linked transaction in relation to an actual or prospective regulated agreement (the “principal agreement”) of which it does not form part if –

...

- (b) the principal agreement is a debtor-creditor-supplier agreement and the transaction is financed, or to be financed, by the principal agreement...”*

The claim about the First Purchase Agreement

The PR has not provided a credit card statement, or anything else, to show that Miss C paid for the First Purchase Agreement using her Barclaycard credit card. Therefore, there is simply no evidence that the necessary D-C-S relationship exists. Unless I’m presented with evidence, the claims against Barclaycard about that purchase cannot succeed.

The claim about the Second Purchase Agreement

The PR has not provided me with a copy of Miss C’s credit card statement to show me that she paid for the Second Purchase Agreement using her Barclaycard credit card. However, I’ve seen a copy of a receipt, which shows that Miss C paid Trustee F £2,450 on 4 April 2004. This shows the last four digits of the card that was used, and Barclaycard has not disputed Miss C’s suggestion that it issued the card. So, I think there is sufficient evidence to proceed on the basis that Miss C paid for the Second Purchase Agreement using a credit card provided by Barclaycard.

For a claim to be successful under s.75 CCA, there first needs to be a D-C-S agreement in place for the creditor (here Barclaycard) to be liable to the debtor (Miss C) for the misrepresentations of the supplier (here, Business 2). But, on the face of it, there was no such arrangement in place at the relevant time, which was the date Miss C entered into the Credit Agreement with Barclaycard. There is because Business 2 was not paid directly using the credit card; rather, the payments were taken by Trustee F.

There are ways in which there can be a D-C-S agreement in place, even if the supplier is not paid directly using a credit card. The law in this area has been clarified by the judgment in Steiner v. National Westminster Bank plc [2022] EWHC 2519 (KB) ('Steiner'). Steiner considered whether there was a D-C-S arrangement in circumstances where Trustee F took payment on a credit card in relation to the purchase of a timeshare membership from a timeshare provider. The court considered the arrangements between the parties and concluded that, as the payment to the supplier was made outside of the credit card network, in that instance there was no D-C-S agreement in place.

The circumstances of Miss C's complaint are very similar. Here, Trustee F appears to have taken the payment from Miss C in the same way as in Steiner. So, I think a court would come to a similar conclusion and say that there was no D-C-S agreement in place and, in turn, no valid s.75 CCA claim as Business 2 was not paid under an agreement involving Barclaycard.

I have also thought about the complaint that there was an unfair debtor-creditor relationship, as defined by s.140A CCA. However, under that provision, one can only consider how the agreement between Miss C and Business 2 affected the fairness of the debtor-creditor relationship if there was a valid D-C-S agreement in place. And, as I have already explained, I don't think such an arrangement was in place, nor has Miss C or the PR suggested there was an unfair relationship between Miss C and Barclaycard for any other reason.

It follows that I don't think the CCA applied to the claim and complaint the PR brought on Miss C's behalf in the way the PR suggested it does.

The PR has asked that I depart from the conclusions in Steiner for the purposes of dealing with Miss C's complaint as it says that her complaint goes "beyond the technicalities" of the arrangement between the parties. But it hasn't put forward a compelling case for departing from the acknowledged legal position. Under the rules set out above, I must take into account the law but come to my own determination of what is fair and reasonable in any given complaint. Here, I have considered what the PR says about the way the timeshare was sold by Business 2 to Miss C but am not persuaded to depart from the judgment handed down in Steiner as the circumstances of Miss C's complaint are more or less identical to those in Steiner. So, I don't think it would be fair to make Barclaycard responsible for Business 2's alleged failures when the law does not impose such a liability on it in the absence of a relevant connection between it and Business 2.

I also note that the holiday rights under the Second Purchase Agreement were due to begin in 2005, but Miss C traded this for a different timeshare with Business 3 on 10 December 2004. So, while I appreciate she is now saying that there were problems with the holidays she received, those holidays must have been taken using the agreement with Business 3. As there is no D-C-S relationship involving Barclaycard in relation to that purchase, it follows that there is no such liability to Barclaycard for anything that may have gone wrong with that purchase.

The compensation offered by Barclaycard

In its final response letter, Barclaycard acknowledged that Miss C had received a “poor customer experience” during her claims. It explained that the PR had submitted the documents to the wrong business and that this had contributed to the delay, but that it had paid Miss C £100 to compensate her for the delay.

The PR did not mention this compensation payment in its submission to our service. But in response to the Investigator’s findings, it says:

“Furthermore, while compensation of £100 has been offered for the delay, does not commensurate with the gravity of the complaint.” (sic)

I’ve thought about the compensation offered by Barclaycard, and I don’t think it needs to pay Miss C any more than it has already done. After all, Miss C’s claims and complaint were managed by the PR, who could have escalated it to our service far sooner than it has done. So, I think the PR could have mitigated the delays Miss C experienced quite significantly, but it did not. And I don’t agree that the amount Barclaycard offered to compensate for delays is in any way tied to the value of the underlying claims, so I don’t agree with the PR’s reasoning and will not recommend that Barclaycard pay any more compensation to Miss C.

Responses to the provisional decision.

Barclaycard responded and accepted the provisional decision.

The PR responded on Miss C’s behalf but has not provided any additional information for me to consider.

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 I’ve not received anything new to consider from either party, I see no reason why I ought to depart from the findings and conclusions I reached in the provisional decision.

In conclusion, given the facts and circumstances of this complaint, I don’t think Barclaycard acted unfairly or unreasonably when it dealt with Miss C’s claim under Section 75 of the CCA, and I’m not persuaded that it was party to a credit relationship with her that was unfair to her for the purposes of Section 140A of the CCA. And having taken everything else into account, I see no other reason why it would be fair or reasonable to direct Barclaycard to pay her any compensation.

My final decision

For the reasons I’ve given above, I don’t uphold Miss C’s complaint about Barclays Bank UK PLC trading as Barclaycard.

Under the rules of the Financial Ombudsman Service, I’m required to ask Miss C to accept or reject my decision before 15 August 2025.

Andrew Anderson
Ombudsman