

The complaint

Mr J complains that Barclays Bank UK PLC trading as Tesco Bank (“Tesco”) has acted unfairly by not refunding a payment using his credit card.

What happened

Around September 2019, Mr J says he paid a deposit of £500 to a hotel I’ll refer to as L, using his Tesco’s credit card, for a stay in September 2020.

Due to travel restrictions imposed following Covid-19, Mr J says he was unable to travel abroad for his stay at L, so he contacted L to request a refund. L responded and explained it could change the dates of his stay and keep the prepayment to be used on a new reservation before December 2021.

Alongside this, Mr J contacted Tesco around September 2020, to make a claim under Section 75 of the Consumer Credit Act 1974 (CCA).

Tesco reviewed matters but declined Mr J’s claim, saying the service was still available and under L’s terms and conditions no refund was due. Unhappy Mr J complained, and Tesco issued its final response letter on 20 September 2020.

Following this, Mr J contacted this Service around October 2020. He says he did so to raise a complaint about Tesco’s response to his section 75 claim relating to L.

Mr J next contacted this Service in July 2025, asking for an update on his complaint. At this point we explained under our retention policy, we no longer held details about Mr J’s complaint.

Tesco also said it didn’t consider this Service had the jurisdiction to look into Mr J’s complaint, as he’d not raised it with us within six months of the final response letter – which it had sent on 20 September 2020.

An Investigator here reviewed matters but didn’t think this was a complaint our Service could consider. They said, while Mr J had raised a complaint with this Service around October 2020, there wasn’t enough to say this related to the section 75 claim he’d made with Tesco. Our Investigator further explained, even had Mr J referred his complaint in time, they would recommend it was dismissed. They said this was because it wasn’t appropriate for this Service to consider a complaint so long after Mr J had initially brought it to us. And had he wanted us to look into things, we would have expected Mr J to contact this Service within a reasonable timeframe – which he didn’t do.

Mr J didn’t agree, in summary saying Tesco had confirmed a final response had been sent, and he’d provided evidence he’d contacted this Service shortly after. He also didn’t agree it was inappropriate for this Service to consider the complaint due to the time that had passed.

As no agreement was reached, the complaint was passed to me to decide.

I've previously issued a decision, setting out why this complaint is one our Service can consider. This decision therefore addresses the merits of Mr J's complaint. I issued a provisional decision in relation to the merits, explaining why I didn't think this complaint should be dismissed but that I didn't intend to uphold Mr J's complaint.

In relation to the merits of Mr J's complaint, in summary I said:

"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Firstly, I want to say how sorry I was to hear about the difficulties Mr J has experienced over the years, I can appreciate it's been an incredibly distressing time for him. While I've not repeated everything Mr J has told us here – because our decisions are published – I want Mr J to know I've read and taken into account everything he's told us when coming to my decision.

I should also say I won't be commenting on the handling of Mr J's complaint by this Service, as it's not appropriate for me to do so within a decision.

Both parties have been asked to supply all the information they've retained relating to this complaint, but as a result of time that's passed there is limited information available. Where evidence has been incomplete, I've reached my view on the balance of probabilities – what I think is most likely to have happened given the available evidence and wider circumstances."

In relation to whether this complaint should be dismissed, I explained that I thought it was appropriate to consider Mr J's complaint, rather than dismissing it – as our Investigator recommended. I said that because, even when there is limited information, this Service can still consider a complaint. And based on what I'd seen, this wasn't a complaint that had been considered previously. As such I went on to say:

"I think it's appropriate to consider Mr J's complaint about Tesco's handling of his section 75 claim, relating to the payment made to L. So as I think Mr J raised this complaint from 2020 in time, and I don't plan to say it should be dismissed, I'll go on to consider the merits of this complaint.

I'll be considering whether Tesco – a financial services provider – has acted fairly and reasonably in handling Mr J's request for a refund. I must make the distinction between the financial services provider (Tesco) and the supplier (L). That's because I can't look directly at the actions of L, or comment on those.

Firstly, I should say, I haven't seen a copy of Mr J's statement showing his payment to L. That's because neither Mr J or Tesco have retained a copy, but given the time that's passed I don't think that's unreasonable. Mr J has told this Service the payment was for £500 and made using his Tesco credit card. Tesco also hasn't disputed that, as such I've gone on to consider the protections available to Mr J when using a credit card to make a payment.

Chargeback

Chargeback allows for a request of a refund to be made of money paid with a plastic card in certain scenarios. I'm looking here at the actions of Tesco and whether it acted fairly and reasonably in the way it handled Mr J's request for help in getting his money back. This will take into account the circumstances of the dispute and how L has acted, as well as other considerations, such as the card scheme rules, which Tesco must follow and its own obligations.

In this case, it's not clear whether the credit card Mr J used was a Visa or Mastercard. However, whether the card is a Visa or Mastercard, the rules relating to both aren't materially different in Mr J's case, I'll explain why below.

Chargebacks are not guaranteed to succeed; the recipient of the funds (L in this case) can choose to challenge or defend a chargeback if it doesn't think it is valid. But I would expect Tesco to attempt a chargeback, if there was a reasonable prospect of success. Due to the time that's passed, the information isn't available to know whether Tesco did or didn't pursue a chargeback, so I've thought about what would have most likely happened, had it done so.

In this case, I don't consider that a chargeback would have had a reasonable prospect of success. I say that because whether Tesco pursued a chargeback or not, it would have been a requirement under either card scheme to evidence the service he paid for wasn't received or wasn't available.

But in this case, L confirmed both that the hotel was open and that should Mr J be unable to travel, he could use the prepayment he'd made on another stay before 31 December 2021. I note Mr J also responded to L at the time confirming he would delay his holiday until 2021, as a result.

So when Mr J contacted Tesco around September 2020 to raise his dispute, I can't see how he would have been able to evidence that L had cancelled the service or refused to provide it. This is information that would have been necessary for Tesco to have pursued a successful chargeback under either scheme rules. The fact Mr J was unable to travel and use the services provided by L at the time he'd initially planned to, isn't a reason for a chargeback to be successful under the rules.

I think it would also be helpful to point to guidance issued by one of the card schemes at the time, relating specifically to guidance during the Covid-19 pandemic and designed to give guidance to financial service providers, such as Tesco. Of relevance here is guidance issued by Mastercard which said:

"Question: A cardholder is unable to use available services because of travel restrictions on the cardholder. For example, a cardholder may not be permitted to board an operating flight due to their nationality or medical symptoms, or the cardholder cannot reach a hotel stay due to border closures. Does an issuer have chargeback rights?

Answer: No. The issuer does not have chargeback rights if a cardholder cannot use or access services made available by a merchant, as the merchant has fulfilled its obligations linked to the transaction. This also applies to non-airline merchants, such as hotels and other venues that kept their obligations to deliver services".

While I don't know for certain that Visa would take the same view, there is generally a high degree of similarity between the card schemes. So had Mr J's claim been subject to Visa rules, I think it's more likely than not, a chargeback for Mr J's stay would have been treated as invalid for this reason also.

Even if I'm wrong on this point, I can't see how a chargeback had a reasonable prospect of success in any case. Because as explained, at the point Mr J raised it, L was still offering to honour the payment he'd made against a stay at a later date.

Taking all of this into account, I don't think whether Tesco raised a chargeback at the time, or not, changes the outcome here. As I can't see that Mr J would have been able to provide the necessary evidence required under the rules, namely confirmation the service he'd paid

for wasn't available or had been cancelled. As a result, there wouldn't have been a reasonable prospect of success, and Mr J hasn't lost out as a result. As such, I plan to say Tesco hasn't acted unfairly here.

Section 75

Tesco has provided information to say it declined Mr J's claim as the booking he made with L was non-refundable. It's also said it was unable to dispute this as the service with L was still available. As such, I think it more likely than not, Tesco considered Mr J's claim under section 75 but made the decision to decline it. So I'll now go on to consider whether that was a fair outcome, given the evidence available.

Section 75 of the CCA allows consumers who have purchased goods or services using a credit card, to claim against their credit card issuer in respect of a breach of contract or misrepresentation by the supplier of those goods or services, so long as certain conditions are met.

One condition which needs to be met for section 75 to apply, is the claim must relate to an item with a cash price of over £100 and no more than £30,000. Mr J says he paid L £500, so this condition appears to have been met here.

A further condition that needs to be met, is that there needs to be what is known as a debtor-creditor-supplier ("DCS") agreement in place. Based on what Mr J has said, and that Tesco appear to have considered a section 75 claim, I think it's more likely than not that was also met here.

I also need to be persuaded there has been a breach of contract or misrepresentation and if there has, what the resolution should be.

Has there been a misrepresentation or breach of contract?

Misrepresentation

For the purposes of this case, a misrepresentation is a false statement of fact which induces another party into a contract which leads them to suffer a loss.

Mr J is complaining that because he was unable to travel, he couldn't use the booking he'd made with L and didn't receive a refund for the £500 deposit he'd paid. As such, I think it would be more appropriate to consider this argument under a breach of contract.

I've also seen nothing that would represent a false statement of fact by L, which induced Mr J to enter a contract with it. So, I've therefore gone on to consider whether there has been a breach of contract.

Breach of contract

A breach of contract occurs when one party to the contract fails to discharge its obligation to the other. These obligations may come about as a result of the express terms of the contract, or because of terms implied by legislation.

Mr J's primary concern here is that, as a result of the Covid-19 pandemic, he was unable to travel abroad and use the booking he'd made with L. He's said he paid a deposit of £500, which it appears he's saying he was unable to use and lost.

Tesco has said the booking Mr J made with L was non-refundable and was still available when Mr J made his claim, as such there hasn't been a breach of contract for which it could be held responsible.

Mr J has provided the booking confirmation from L, which includes the booking conditions. These are clear as to the cancellation policy and say:

"[Cancellation]

If you cancel or no show, the hotel will not refund the deposit"

This is supported by emails Mr J received from L, after he explained he was unable to travel, which say:

"The hotel offers to change the dates or keeping the prepayment and use it on a new reservation with say before 31.12.2021."

While it's not clear whether Mr J used the deposit on a later booking, as he initially confirmed he would do, I think the terms are clear in saying any deposit paid will not be refunded. I should also say, I've not seen anything to say that cancellation due to being unable to travel, or anything else for that matter, means this term wouldn't apply. Given this, as I'm not persuaded there's been a breach of contract here, Tesco appear to have acted fairly in declining Mr J's section 75 claim as a result.

Tesco has also said when Mr J raised his claim with it, the service provided by L was still available. And based on the emails Mr J has provided it seems this was the case. These explain in September 2020, L was open and it also offered to use his deposit against a later booking up to 31.12.2021. So, when Mr J contacted Tesco, around September 2020, the service L was offering was still available and hadn't been cancelled. As such, I don't find there has been a breach of contract for this reason either, so it follows Tesco appear to have acted fairly in declining Mr J's section 75 claim as a result of this also.

As above, I don't know whether Mr J later used or attempted to use, the deposit he'd paid to L for another stay. But even if he did, that wouldn't change the outcome here, as I'm considering whether Tesco acted fairly in the way it handled the section 75 claim he raised with it around September 2020, and based on everything I've seen and for the reasons explained above, I plan to say it did.

Taking everything into account, I'm not persuaded there has been a breach of contract in this case, so I don't think Tesco acted unfairly in declining Mr J's section 75 claim.

While I appreciate this will come as a disappointment to Mr J, I can't say Tesco has acted unfairly in how it handled his claim. As explained, I don't think a chargeback claim would have had a reasonable prospect of success, if pursued by Tesco, as I haven't seen Mr J would have been able to provide the evidence required under the rules. And section 75 is prescriptive in the way a claim can be made and based on what I've seen, there's no evidence there has been a breach of contract or misrepresentation here. So I don't think Tesco acted unfairly in its handling or decline of Mr J's section 75 claim and I don't think a chargeback claim would have had a reasonable prospect of success. As a result, I don't plan to ask Tesco to do anything here."

Responses to my provisional decision

I invited both parties to respond with any further points or evidence they wanted me to take into account before I issued my final decision.

Mr J didn't agree with my provisional decision, in summary he said:

- As he'd booked the flights using the same credit card, and these were cancelled, the holiday essentially collapsed in law – as there was no realistic way the hotel could be used. As such he considered the contract he'd entered had been frustrated and as such the term to say the deposit was "non-refundable" cannot be applied.
- The incorrect legal test had been applied, by saying the booking remained available – instead the correct test should have been whether another event made the performance of the contract different or impossible.
- During Covid-19 the Competition and Markets Authority (CMA) said consumers were entitled to refunds where accommodation couldn't be used. Even where the contract was "non-refundable".
- In any case, the cancellation of the flights was a breach of contract and as such, under section 75 Tesco was jointly liable for all losses, including the consequential loss of the hotel.
- Mastercard's guidance suggesting there were 'no chargeback rights', does not override UK law.
- Initially due to the Covid-19 pandemic and later due changes in his personal circumstances, he'd been unable to use the £500 deposit against a later stay with L.

Mr J also added his concerns that he'd requested an update on his case in 2022 and at the time our Service had a record of his complaint. As such, he considered that the file no longer being available represented institutional bias and my decision should consider the handling of his case from this point.

In addition, Mr J referenced several complaints he said our Service had considered previously. In these he said our Service required card providers to issue refunds where Covid-19 restrictions made travel impossible.

Tesco didn't respond to my provisional decision by the deadline, or extended deadline I set. As such I think it's appropriate I continue to final decision.

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, I've reached the same outcome as set out in my provisional decision.

Firstly, I want to reiterate that while Mr J is unhappy with the overall service he's received from us, particularly in relation to our retention policy – that isn't something I can comment on in a decision. So, while he's asked me to consider these aspects, I won't be doing so. Mr J has previously been informed by this Service the route he needs to take if he remains unhappy with the service he's received – so I won't be commenting on that further.

As part of his response Mr J has raised several legal arguments. However, the regulator the Financial Conduct Authority (FCA) sets out the rules for our Service to follow. These rules are set out in the Dispute Resolution: Complaints (DISP) Handbook. DISP 3.6.1 says:

The Ombudsman will determine a complaint by reference to what is, in his opinion, fair and reasonable in all the circumstances of the case.

And DISP 3.6.4 says:

In considering what is fair and reasonable in all the circumstances of the case, the Ombudsman will take into account:

(1) relevant:

(a) law and regulations;

(b) regulators' rules, guidance and standards;

(c) codes of practice; and

(2) (where appropriate) what he considers to have been good industry practice at the relevant time.

The effect of these rules mean I'm required to take into account the information, laws and legislations Mr J has mentioned, but I'm not bound by them. This reflects our informal nature as an alternative to the courts.

Section 75 claim

Mr J has raised several arguments that because the flights he booked, also using his Tesco credit card, were cancelled, he should receive a refund for the hotel. However, I want to start by saying, based on what I've seen, while Mr J used the same credit card, the purchase of flights formed an entirely separate contract. I say that because, he made payment to a different party, and as such would have entered a contract with it, that didn't relate to his stay with L. And although I understand the flights were bought so Mr J could reach his stay with L, that wasn't a requirement imposed by L and I haven't seen anything to say there's a relationship between L and the airline. The fact Mr J used the same credit card to enter into two separate contracts with two separate providers, doesn't mean the necessary relationship for section 75 has been met.

In addition, Mr J has said the cancellation of the flights was a breach of contract under section 75, and as such the loss of his deposit to L should be considered a consequential loss. However, that isn't the complaint Mr J has raised with Tesco – he's complained it declined his section 75 claim for the payment made to L. So that's all I can consider in this decision. On this point, I should also say, Mr J received a full refund from the airline – but as explained above, that doesn't mean any other expenses relating to his trip should be refunded as they formed separate contracts.

Mr J has said the holiday essentially collapsed in law – as there was no realistic way the hotel could be used. And as such says the contract with L was frustrated so it isn't correct to rely on the term that the deposit to L wasn't refundable. However, I don't agree.

I say this for several reasons. Firstly, as explained above, this wasn't a "package holiday". The fact Mr J's flights were cancelled didn't mean the booking with L was also cancelled. Given this, I can't agree that performance of the contract with L was impossible. L could have legally provided the room to Mr J – and in fact confirmed the hotel was still open and available. Mr J could also still pay for the booking (his part of the contract performance). As such, the fact he couldn't physically get to the location, doesn't on its own, mean the performance of the contract with L was impossible.

Overall, I've found the booking made with L included the term that the deposit was non-refundable, in the event Mr J had to cancel the booking. I also think this was made clear to

Mr J, both on booking and when he contacted L. This means I don't think the booking term was misrepresented, or that L refusing to provide a refund to Mr J of the deposit he paid meant it breached its contract with him.

I've considered the CMA guidance Mr J mentioned. Having looked at the context in which the guidance originally appeared, I think it was intended to cover scenarios where the CMA would have considered the contract to have been frustrated. Frustration is not the same as breach of contract – it is a different legal doctrine – and is not one of the types of claim which is covered by section 75 of the CCA. So unfortunately, I don't find that this helps Mr J in his complaint against Tesco.

That said, when Mr J raised his section 75 claim with Tesco, L was still offering to provide the service to Mr J. The fact he ultimately was unable to use it at a later date, due to personal circumstances isn't a reason under the terms for Mr J to receive a refund either.

Section 75 covers misrepresentation and breaches of contract, but as I've explained above I haven't found there has been a misrepresentation or breach of contract by L. There is no evidence to suggest it wasn't going to provide the service to Mr J, either when he originally booked to stay or at any point up to 31 December 2021. And it applied its cancellation policy, as was its right. As such, I don't think Tesco acted unfairly in declining Mr J's section 75 claim.

Chargeback

I understand Mr J says chargeback rights don't override UK law. But on this point, it might be helpful to explain that a chargeback is a voluntary scheme, not a legal right, run by the card networks. In this case that's Mastercard. So, when payment is made by credit card, as was the case here – chargeback is simply another avenue for a potential refund, rather than a legal requirement or statutory right, such as section 75.

As explained in my provisional findings, taking into account Mastercard's rules, had Tesco raised a chargeback I don't think there would have been a reasonable prospect of success. That's because I can't see how Mr J would have been able to provide the evidence required for it to be successful – that the service provided by L had been cancelled or wasn't available. I say this as the hotel was both available, and L hadn't cancelled. The fact Mr J couldn't travel to L to use the service wasn't enough, under the rules, for a successful chargeback.

For completeness, I'm aware Mr J has referred to other decisions issued by this Service, in which he says we required card providers to issue refunds. Firstly I should say, having looked at the references he's provided, some don't relate to decisions this Service has issued and those that do, are about entirely different products. But in any case, I must look at every complaint individually, and on its own merits as individual circumstances can result in a different outcome. And here, having done that, I haven't found Tesco has acted unfairly, for the reasons explained.

Overall, taking everything into account I don't think Tesco has acted unfairly here. The chargeback claim wouldn't have had a reasonable prospect of success if Tesco had pursued it, as the evidence required under the rules wasn't available. And I haven't seen evidence of misrepresentation or a breach of contract by L, so I don't think Tesco acted unfairly in its handling or decline of Mr J's section 75 claim. As a result, I won't be asking Tesco to take any action here.

My final decision

For the reasons explained above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 23 February 2026.

Victoria Cheyne
Ombudsman