

complaint

Mrs D complains that Barclays Bank Plc (trading as Barclaycard) will not refund her for faulty chairs bought on her credit card. The supplier agreed to replace them but did not do so before it entered into administration. The complaint is under Section 75 of the Consumer Credit Act 1974.

our initial conclusions

The adjudicator recommended the complaint be upheld. He said Mrs D had a valid claim for breach of contract under Section 75. He found the correspondence from the supplier and the company who inspected the chairs strongly implied the goods were not of satisfactory quality. Barclaycard said that Section 75 did not apply as the goods were bought for Mrs D's elderly mother. It says there is no valid debtor, creditor, supplier relationship.

my final decision

To decide what is fair and reasonable in this complaint, I have considered everything that Mrs D and Barclaycard have provided.

The problems with the chairs were reported a few months after purchase. Technicians confirmed that repairs were required to the chairs and the supplier agreed to a replacement. I am persuaded the chairs Mrs D bought were defective, and the supplier should have replaced them. The central question for me to consider is whether Mrs D is able to make a claim against Barclaycard under Section 75 - as the goods were bought for her mother.

The sales invoice for the chairs is made out to Mrs D, and she paid with her Barclaycard. The accompanying insurance policy bought with the chairs is also in the name of Mrs D. She said the chairs were a gift, and her mother was not paying her back for them. I am persuaded that the contract for the chairs was made between Mrs D and the supplier, and that she was ultimately responsible for payment. Therefore I find the necessary debtor, creditor, supplier relationship exists and Mrs D is able to make a Section 75 claim against Barclaycard.

My final decision is that I uphold this complaint as set out in more detail overleaf.

Under the rules of the Financial Ombudsman Service, I am required to ask Mrs D either to accept or reject my decision before 25 November 2013.

Mark Lancod

ombudsman at the Financial Ombudsman Service

The ombudsman may complete this section where appropriate – adding comments or further explanations of particular relevance to the case.

ombudsman notes

I uphold the complaint and direct Barclays Bank Plc (trading as Barclaycard) to:

- rework Mrs D's credit card as if the payment for the faulty chairs, and accompanying insurance policy had never been made;
- take possession of the chairs at no cost to Mrs D.

what is a final decision?

- A final decision by an ombudsman is our last word on a complaint. We send the final decision at the same time to both sides – the consumer and the financial business.
- Our complaints process involves various stages. It gives both parties to the complaint the opportunity to tell us their side of the story, provide further information, and disagree with our earlier findings – before the ombudsman reviews the case and makes a final decision.
- A final decision is the end of our complaints process. This means the ombudsman will not be able to deal with any further correspondence about the merits of the complaint.

what happens next?

- A final decision only becomes legally binding on the financial business if the consumer accepts it. To do this, the consumer should sign and date the acceptance card we send with the final decision – and return it to us before the date set out in the decision.
- If the consumer accepts a final decision before the date set out in the decision we will tell the financial business – it will then have to comply promptly with any instructions set out by the ombudsman in the decision.
- If the consumer does not accept a final decision before the date set out in the decision, neither side will be legally bound by it.