

## The complaint

Mr J complains about how Barclays Bank UK PLC responded to his claim.

## What happened

The parties are familiar with the background details of this complaint so I will only summarise them here.

Mr J is unhappy with a cycling trip he booked from an organisation ('the supplier') using his credit card. He wants a full refund for the trip which cost £999. In summary, he says it was badly organised (poorly designed routes and inadequate support), the accommodation was not as originally promised, and the food was inadequate. He also says there was no gift pack or after party.

Barclays did not uphold the claim. In summary, it said a chargeback dispute could not be raised as it was out of time, and there was insufficient evidence to establish a breach of contract under Section 75 of the Consumer Credit Act 1974 ('Section 75').

Mr J complained to this service. Our investigator looked into it and thought that Mr J should get a partial refund of £200.

Mr J disagrees. He thinks he is entitled to more. He also didn't think his complaint about the service failings of Barclays had properly been taken into account.

The matter has come to me for a decision.

I issued a provisional decision on this case as follows:

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

*There are lengthy submissions on the file – but I will only focus on the matters I consider to be key here. This reflects my role resolving disputes informally.*

*It is important to note here that Barclays is not the supplier of cycling trips here – so in deciding what is fair and reasonable my focus is on its response to Mr J's claim in light of any relevant card protections available. In this case I note Mr J used a credit card so chargeback and Section 75 are relevant here.*

### Chargeback

*The chargeback disputes process is run by the card schemes and is based on particular, fairly narrow rules.*

*Barclays says it didn't raise a chargeback here because Mr J provided the relevant claim information too late under the scheme rules. However, I am not entirely convinced that is correct. It appears the VISA card scheme is relevant here. However, for a reason code*

*relating to a service not being as described (what appears to be the most appropriate reason code here based on what Mr J submitted) the timescale is 120 days from when the service was received, and not to exceed 540 days from the transaction processing date.*

*Mr J raised his claim with Barclays around July 2022 which appears to be within the long stop date in respect of the transactions for the service and also 120 days from when the service took place (June 2022). So I am not sure why Barclays is saying it was unable to raise a chargeback here.*

*It isn't clear what would have occurred if a chargeback had been raised though. It appears the supplier is likely to have contested claims based on the evidence I have seen. There is an argument that due to the rule based nature of the scheme, the lack of a detailed contract and the circumstantial nature of the evidence Mr J is relying on, that a chargeback would not have been successful. However, even if I put this aside I consider it unlikely that any chargeback would have resulted in a full refund because Mr J made use of the services.*

*Ultimately, I don't think a chargeback would likely have recovered more than the amount I am proposing Barclays refund Mr J under Section 75 (below). Therefore, I don't consider it necessary to discuss chargeback in any further detail here. I have now moved on to consider Section 75.*

#### *Section 75*

*Section 75 makes Barclays responsible in certain circumstances for a 'like claim' that Mr J would have against the supplier for breach of contract or misrepresentation.*

*Section 75 is a legal right, and arguably wider than the chargeback scheme as it takes into account the implied terms under consumer protection law. For example, the requirement that a service is provided with 'reasonable care and skill' as implied by the Consumer Rights Act 2015 ('CRA').*

*There are certain requirements for Section 75 protection to be in place relating to matters such as the cash price of the services and the parties to the agreement. I am satisfied these are met here for Mr J to have a claim against Barclays so I have moved on to whether there is evidence of breach of contract or misrepresentation.*

*I don't think there is persuasive evidence here of specific false factual statements in respect of the trip that changed Mr J's decision to go ahead with the purchase. So I don't think a claim for misrepresentation is the primary issue that Barclays should have considered here. However, in the interest of completeness I don't think a claim for misrepresentation would fairly have recovered more than I am proposing as reimbursement in relation to breach of contract in any event.*

*Therefore, I have moved on to consider the evidence supporting a breach of contract, including the specific terms of the contract and the implied requirement under the CRA that a service is provided with reasonable care and skill.*

*I note there doesn't appear to be a detailed contractual agreement here. In effect what was agreed prior to contracting is evidenced by the advert for the trip which is rather general.*

*Notably it doesn't say much by way of detail about the nature of the food on offer, specific accommodation or other finer details of the trip. This makes it more difficult to conclude that specific terms of the contract have been breached here. However, I note that some things*

are specifically stated– such as the fringe benefits (gift pack, hoodie, after party). And while it isn't entirely clear to me whether specific terms such as these were breached– in considering fair redress I have noted Barclays apparent lack of investigation with the supplier and Mr J's strong testimony. So I consider it more likely than not that at least some specific aspects of the contract like these were not fulfilled.

I have turned to the implied term in the contract that a service will be provided with reasonable care and skill. I think there is evidence which fairly leads to a conclusion that at least certain elements of the trip were not provided with reasonable care and skill. In support of this finding I note as follows:

- Mr J's strong and persuasive testimony about the poor planning of the event, standard of accommodation and the difficulties with routes (including participants getting lost and having inadequate support on the route).
- There is some circumstantial evidence to support the fact that the accommodation provided was not of the standard expected considering the description by the supplier that the event would be 'premium'.
- Correspondence from the supplier persuasively indicates the trip did not go as it should have including 'sorry about the event and everything' to the attendees with an offer of trade price deals on bikes by way of an 'apology'.
- Mr J has indicated that the supplier offered him a free place on a future event (and a message to participants from the supplier appears to support this). He also says there is an audio recording of the supplier's offer (I don't appear to have this but Mr J is free to send this in response to my provisional findings if he wants). This once again, with the other information I have paints a picture that the event fell below the expected standard.

In concluding aspects of the event were likely not provided with reasonable care and skill I note the supplier's description that the event is 'premium' which sets a high bar. Furthermore, in making a fair decision here and placing weight on certain evidence in favour of Mr J I note that Barclays does not appear to have got in touch with the supplier during the investigation and I think it reasonably could have done so. As a result there is a lack of rebuttal against Mr J's testimony and the other factors here.

However, in deciding fair redress I note the following:

- Mr J did receive a service and I have not seen compelling evidence that would justify the full refund he is claiming;
- I don't see compelling evidence that the food was insufficient throughout the duration of the whole trip (I note some evidence from group chats Mr J has provided shows other participants were pleased with certain meals). I see an instance where the supplier indicates that participants can contribute to the dinner but that appears where they prefer options other than the standard rice or pasta dish on offer. I don't see compelling evidence that Mr J or other participants complained at the time about inadequate portion sizes– but in any event on balance I am persuaded that meals were provided even if this was not quite the 'premium' experience that the supplier had described at the outset.

- *Even if I accept there were times when the accommodation was changed to a lower standard expected – Mr J did appear to receive accommodation during the event as promised.*
- *Mr J points to other people claiming full refunds from the supplier – but this appears to be those who never went on the trip in the first place. It follows that it wouldn't be fair for Mr J to receive all his money back when he has attended the trip.*

*So while I accept it is more likely than not that certain elements of the trip were not provided with reasonable care and skill, and that some specific terms of the contract were not fulfilled I also consider that a court would be unlikely to award Mr J a full refund here. Therefore, even though I think Barclays should have upheld the Section 75 claim for breach of contract I don't consider it should have provided a full refund.*

*In coming to a fair price reduction I consider that this is not a science. And noting my role resolving disputes informally I am not able to break down the figure in the granular way that Mr J appears to have requested from our investigator.*

*Ultimately, there is a case to say aspects of the event were not up to standard – that is clear. But there isn't compelling evidence available to Barclays to warrant a full refund. Overall, I think that in the circumstances, it would be fair for Barclays to have paid Mr J £500 (around 50%) of the cost of the trip as a price reduction in accordance with the remedies as set out in the CRA. I also think it needs to pay him out of pocket interest at 8% simple yearly from when it appears to have discontinued his claim in November 2022.*

#### *Customer service*

*Mr J in his complaint has pointed to what he has said is poor claim handling by Barclays which he wants compensation for. I have looked into this in more detail.*

*I asked Barclays to provide further information about how it handled the claim and have asked our investigator to provide this to Mr J too. I am not persuaded that it handled the claim well.*

*From what Barclays has provided and Mr J's compelling and detailed testimony I am persuaded that it did not communicate well with Mr J and in some cases didn't call him back/follow up on things when it should have. I also note that Mr J appears to have had his claim closed in error, and been made to repeat information across two claim forms unnecessarily. It is also not clear to me that Barclays actually gave him a claim outcome at any stage. From what Mr J says he had to continue to chase Barclays for a response and was left in 'limbo'. Barclays has not provided compelling evidence to show this was not the case. And it has admitted that on at least one occasion it didn't get back to him when it should have.*

*Mr J provided this service details of his particular vulnerabilities which added to the impact of these customer service errors. I am sorry to hear about this. I asked Barclays about this recently and what records it had of Mr J's vulnerabilities and agreements as to communication. From the information I have seen, while I can see Mr J has logged things more recently, I am not persuaded that Barclays knew (and ignored) these vulnerabilities while it was handling the claim. There isn't compelling evidence Mr J had logged these with Barclays prior to July 2023. So I am not reasonably able to consider this as an aggravating factor here. However, in any event Mr J's vulnerabilities are still relevant when assessing the impact of the situation on him. It is clear to me that Mr J has been extremely frustrated and*

*distressed by the way he has been treated – and no doubt this has been compounded by the vulnerabilities he has shared with this service.*

*I have considered what our website says about awards for distress and inconvenience when deciding a fair award here. I think it is reasonable to consider that a significant element of the distress Mr J had is as a result of the underlying claim against the supplier. However, I think the poor customer service here has caused Mr J more than the level of frustration and annoyance he might reasonably expect from day-to-day life and the impact has been more than minimal. There appear to have been a few smaller errors over a reasonable period. Overall I think that an award of £200 is fair and reasonable here.*

### **My provisional decision**

*I direct Barclays Bank UK PLC to*

- *pay Mr J £500 as a partial refund in respect of his Section 75 claim plus 8% simple yearly interest from 1 November 2022 to the date of settlement; and*
- *£200 for the distress and inconvenience caused by its claim handling.*

*If Barclays considers it should deduct tax from the interest element of my award it should provide Mr J with a certificate of tax deduction so he may claim a refund if appropriate.*

Barclays agreed with my provisional decision.

Mr J said, in summary:

- He has provided further evidence including a message from the organiser regarding the free place offered at a future event – and hopes this shows how poorly things were organised and run;
- he is glad it has been recognised that Barclays is at fault – and should not have closed down his claim and should have engaged with him properly; and
- he is upset to learn that his vulnerabilities and reasonable adjustments were only logged on the Barclays system more recently and should have been applied earlier.

### **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.

I thank Mr J for the additional information he has sent me. I note I still don't appear to have the call recording he has referred to – however, I don't consider this is necessary in any event as the screenshot of the offer of the free place is persuasive and Barclays has accepted my provisional decision in any event.

I have already explained to Mr J the following in respect of his more recent points about Barclays not logging his needs sooner:

*I note you have submitted information about events in 2023 and mentioned the overall failure of the business to log certain information about your vulnerabilities sooner. I would like to clarify something before I issue a final decision on this case.*

*The complaint I am looking at is in respect of how your claim for a refund was handled*

*(Chargeback/Section 75). So I am not looking at events which occurred after November 2022 (when you raised your complaint) or matters outside the original complaint about the claim handling.*

*While your logged communication needs at the time your claim was handled are relevant to the standard of customer service you received, as I have said in my decision – there isn't compelling evidence that the financial business had ignored recorded communication needs while it was handling your claim in 2022. It appears any log of this came later on.*

*Any issues that occurred after the claim handling, or the specific wider complaint point about a failure of the business to log your vulnerabilities sooner would be outside of this complaint. So while you have kindly submitted evidence related to this point and communication in 2023 I don't intend to consider it in detail here. That is not to say you can't raise another complaint about this issue if you wish to do so – but I don't intend to cover it in this decision.*

I have not heard any further submissions from Mr J on this point before the decision deadline.

Overall, neither party has given me cause to depart from my original findings – which I still consider fair and reasonable in all the circumstances.

### **Putting things right**

Barclays should put things right as set out below for the reasons specified in this decision (including my provisional findings above).

### **My final decision**

I direct Barclays Bank UK PLC to

- pay Mr J £500 as a partial refund in respect of his Section 75 claim plus 8% simple yearly interest from 1 November 2022 to the date of settlement; and
- £200 for the distress and inconvenience caused by its claim handling.

If Barclays considers it should deduct tax from the interest element of my award it should provide Mr J with a certificate of tax deduction so he may claim a refund if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 6 March 2024.

Mark Lancod  
**Ombudsman**