

The complaint

Miss Z complains about how Barclays Bank UK PLC handled a claim she made to it.

What happened

The parties are familiar with the background details of this case – so I will simply summarise these here briefly. It reflects my informal remit.

Miss Z is unhappy with dental treatment she paid for from a clinic ('the supplier') using her debit card. She says the work was of poor quality. For example, the initial crowns which were fitted were no good and fell out and were replaced with plastic ones which she was unaware of. She says these are not good quality and are causing undesirable side effects. She wants a refund for the treatment.

Barclays raised a chargeback, which was defended by the supplier. Barclays then discontinued the chargeback.

Miss Z is unhappy and thinks that Barclays could have done more to help her get a refund.

Our investigator did not uphold the complaint. She thought Barclays could arguably have done things a bit differently – but this has not likely caused Miss Z a financial loss in any event.

Miss Z has asked for an ombudsman to review the case for a 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.

I have considered the evidence submitted by the parties but won't be commenting on it all – only what I consider key. This is not meant as a discourtesy but reflects my role resolving disputes informally.

Firstly, I am very sorry to hear about the impact of the dispute about the treatment on Miss Z's mental and physical health. I know this has been difficult for her and she is very unhappy with the supplier's actions. However, I have to underline that Barclays is not the supplier of the treatment, so I am only looking at its role as a provider of financial services. I am looking at how it acted in trying to help Miss Z get her money back. In doing so I note that Miss Z used a Barclays debit card to pay the supplier – so the relevant card protection here is chargeback. In deciding what is fair it is this scheme that I have considered.

Chargeback is run by the card schemes according to rules they have set out. It isn't a general consumer protection law (like Section 75 of the Consumer Credit Act 1974) and is not guaranteed to succeed.

Here it appears that the Visa rules are applicable. So in deciding what is fair I have taken these into account.

Barclays doesn't have to raise a chargeback, but it is often good practice to attempt one. In the circumstances here I can see that it did attempt a chargeback but it stopped this process once the supplier raised a defence to its pre-arbitration letter. So, I have considered if what Barclays did was fair.

From what I understand the reason code Barclays used related to counterfeit merchandise. While I know that Miss Z had claimed that her crowns were replaced with plastic ones without her knowledge and that the certificates she got were fake I think it is arguable that this reason code was not the most appropriate to the situation here.

Looking at the chargeback reason codes it would appear that a chargeback for '*Not as Described or Defective Merchandise/Services*' would have been more appropriate here. Therefore, I have looked at whether Barclay's in using the reason code they did likely deprived Miss Z of her refund in any event.

I note here that although Barclay's used a code relating to something less relevant, the supplier (while pointing out that reason code didn't fit well) still responded with a full defence refusing to concede a refund claiming:

- The dental services were completed;
- Miss Z approved the treatment plan fully; and
- the treatment was carried out in accordance with the plan and Miss Z benefited from it.

So I am satisfied that even if Barclay's had used the reason code relating to not as described or defective goods/services the supplier would likely have robustly defended this too.

It is arguable in the face of such a defence whether Barclay's ought to have taken the dispute further. However, had they done so it would have then left the card scheme to make a decision on the matter via an arbitration process.

The arbitration process is decided by the card scheme, and the outcome is not guaranteed. I appreciate that Miss Z has arguably lost an opportunity to have her case put to arbitration. However, this is not a case where I think the prospect of success is more likely than not – in coming to this finding I note the following:

- it involves a complex medical procedure carried out abroad and there is a lack of independent expert evidence to clearly show Miss Z didn't get what was described or that the service was sub-standard;
- the chargeback scheme is not as well suited to complex disputes such as this involving multiple allegations including personal injury- it does not have the ability to recover consequential losses or the same powers a court does to compel witnesses and expert evidence;
- the supplier has robustly defended the chargeback and not clearly admitted wrongdoing on its behalf, and I note while it did offer Miss Z a refund at one point – in light of its chargeback defence and what it said in the text offering the refund (that it provided the best treatment for Miss Z's case) this would appear to have been on a goodwill basis rather than an admission of liability; and
- a requirement in the scheme rules is that the parties make efforts to resolve the dispute before raising a chargeback – here it appears that the supplier offered Miss Z a refund– and while I understand Miss Z was reluctant to share

with it her bank account details – this could be looked on by the card scheme as a failure to reasonably resolve things prior to raising a chargeback.

Overall, in light of the particular circumstances, I think Barclays made a reasonable attempt to get Miss Z's money back by raising a chargeback to pre-arbitration. And while Barclays could arguably have taken a different approach to the rule it pursued, I don't think there is compelling evidence that persuades me the supplier would have conceded the chargeback or Miss Z would likely have got her money back in any event. Therefore, I don't think it would be fair to conclude that Barclays should now reimburse Miss Z what she paid the clinic for the treatment.

Once again I am very sorry to hear about the impact the issues with the treatment have had on her. I remind her that my decision is only in respect of Barclays and does not prevent her pursuing legal action against the supplier if that is something she wishes to do (and she should seek independent legal advice on this point).

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss Z to accept or reject my decision before 13 May 2024.

Mark Lancod
Ombudsman