

The complaint

A company which I'll refer to as T, complains that Barclays Bank Plc (trading as Barclaycard) treated it unfairly by failing to defend a chargeback claim that was made against it.

In bringing this complaint, T is represented by its director, who I'll refer to as Mr B.

What happened

The background to this case is well known to the parties so, I won't repeat it in detail.

Briefly:

- In September 2019 T signed a merchant processing agreement (the Agreement) with Barclays whereby Barclays provided processing facilities for T's card paying customers.
- In December 2021 one of T's former students, who I'll refer to as Ms C, booked to attend a course costing just over £4,800.
- On 12 December 2021 using her Mastercard, Ms C paid a deposit of £890. On 20 December, using the same card she paid the remaining balance of £3,943.50.
- In January 2022, Ms C wrote to T to say that for health reasons she could no longer continue the course. She later raised a chargeback claim for the £890 deposit that she'd paid.
- In March 2022, Barclays wrote to T concerning this chargeback and requested various items of information to help defend it.
- T did so and included evidence demonstrating the deposit was non-refundable and the chargeback claim was unsuccessful.
- Ms C, however, raised a second chargeback claim in connection with the £3,943.50 balance that she'd later paid for the course.
- And as they'd done in respect of the previous claim, on 12 May 2022 Barclays wrote to T alerting it to this second chargeback. Barclays said that if T disagreed with the claim, then it should within 14 days of the date of Barclays' letter provide them with various items of information set out in the bank's letter.
- T didn't respond within the timeframe and the chargeback was debited to T's account.

- In June 2022 when T's monthly statement arrived, it noticed the debited amount and complained to Barclays.
- T didn't think Barclays should have allowed the chargeback to go undefended. It said it didn't receive Barclays' 12 May letter. But in any event, it maintained that when it was asked for evidence to defend the first chargeback for the £890, it had told Barclays that Ms C had used the same card for a subsequent payment and that she might submit another claim, which in its opinion would be equally unmeritorious.
- T believed that Barclays hadn't recorded on its file what it had told them about Ms C's likely future action. So, according to T they were at fault that the second chargeback claim went undefended. T, therefore, asked Barclays to refund the amount they'd debited from its account.

But Barclays didn't think they'd done anything wrong. They relied on their 12 May 2022 letter they sent to T. And they said that it was in light of T's failure to respond with the information they'd requested within the timeframe given, that they were unable to defend the chargeback.

More generally, Barclays said that although it is true that both of the transactions were taken on the same card, nonetheless they were for different amounts and on different dates. Firstly, the deposit and then later the outstanding amount. They said the deposit was more than likely non-refundable which is why that chargeback was reversed.

Since the complaint remained unresolved, it was referred to our service to look into.

Our investigator was satisfied that Barclays did write to T on 12 May 2022 regarding Ms C's chargeback claim and requested T's response within 14 days. And although she acknowledged T did not receive the letter which meant it missed the response date, nonetheless in the absence of that response, she didn't think the bank was in a position to defend the chargeback.

She said given that our role is to investigate whether Barclays followed the correct procedure and whether they applied the relevant chargeback rules correctly, she was satisfied that they had. Against that background she concluded Barclays hadn't done anything wrong and she was unable therefore to uphold T's complaint.

T didn't accept the investigator's conclusions and on its behalf Mr B has asked for an ombudsman to review the case. In his submission, Mr B has mainly restated the position T has maintained all along – which I summarise:

- Given its advance warning, of Ms C's likely action, when as it had anticipated she did make the second chargeback claim, the bank's system should have alerted the case handler to what was happening. And in light of the first claim being rejected, the same should also have happened in respect of the second chargeback.
- Barclays have produced no evidence to show that their chargeback letter was sent through the Royal Mail's registered system - meaning they have no evidence T received their letter.
- In the circumstances it is unfair for Barclays to decline a refund of the second chargeback which Ms C was successful in claiming.

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.

Where the evidence is incomplete or inconclusive (as indeed some of it is here) I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in the light of the available evidence and the wider circumstances.

I should start by explaining that a chargeback is the process by which disputes are resolved between card issuers and merchants under the relevant card Scheme rules – in this case Mastercard. Essentially under a chargeback, customers are allowed to ask for the reversal of a transaction if they consider there's a problem with the goods or services for which they've paid. Therefore, Ms C was entitled to raise the chargebacks that she in fact did.

Barclays don't, however, operate the Scheme or decide if a chargeback is successful. They can only decide whether or not to defend it. If the merchant's bank chooses to defend the chargeback, the case will then go before the card scheme for consideration of the evidence.

In these circumstances, the merchant has a limited period in which to submit their evidence to the card scheme in response to the claim. So, it is important that the merchant is informed as quickly as possible about the chargeback, and information supporting a challenge is quickly passed on to the card scheme.

Mr B has raised doubts about whether Barclays did notify T about the chargeback in May 2022 as they said they did. In particular, bearing in mind the letter was not sent to T through Royal Mail's recorded delivery system.

Under Clause 21 of the Agreement, however, Barclays have discretion regarding the written method by which they send notices to their customers. And the clause does go on to say that if any notice is sent by first class post it will be treated as being received two days after it was posted or three days in the case of second-class post. And this applies even if the notice is not delivered or is returned undelivered.

Barclays have provided a copy of the letter they sent to T dated 12 May 2022. I note it was correctly addressed and I have no reason to doubt that like the first letter it too was sent to T. T said it did not receive the letter and I have no reason to doubt that either.

Barclays did as reasonably they were expected to do which was to notify T about the chargeback and to ask if it wished to challenge it. I am not persuaded that Barclays did anything wrong in how they made T aware of the chargebacks – including omitting to send the letter by registered delivery post as they were not required to do so under the Agreement.

It's unfortunate the letter wasn't received by T which meant it didn't respond within the time frame requested. It's difficult to explain what happened especially given the fact that Barclays's first notification in March 2022 arrived safely.

However, I don't think I could reasonably hold Barclays responsible for that. And unfortunate though that is, T's failure to provide the evidence the bank had asked for meant they were unable to defend the second chargeback.

I've also thought about T's case that the bank's system should have picked up on its representation to the bank when defending the first chargeback. In particular that Ms C might

submit another chargeback in respect of the second tranche of payment and should therefore have defended it.

Although Barclays acknowledge that both the initial deposit and subsequent payment were made using the same card, nonetheless as they've correctly pointed out and T does not disagree, they were for different amounts and took place on different dates as were the chargeback claims.

But Barclays wrote to T for evidence in order to challenge each chargeback. Whilst T may well have alerted Barclays to the possibility of a second chargeback, I don't think Barclays were wrong when, on receiving the claim, they at that point asked for evidence to support a challenge.

Ultimately what happened here was that Barclays didn't receive the evidence they asked for from T within the timeframe T was given. And whilst I sympathise with T that the reason it did not respond in time was because it did not receive the letter, as I concluded above, I cannot fairly blame Barclays for that.

Having not received the information they asked for, Barclays have said they were unable to defend it. In the circumstances I do not think I can reasonably conclude Barclays were at fault for not doing so.

I am aware Mr B feels very strongly on this matter and believes Ms C has received a chargeback she wasn't entitled to. However, that would be relevant to a dispute between T and Ms C. I'm afraid it's not relevant to T's dispute with Barclays.

As to whether Barclays should refund the chargeback, I've noted that Clause 4 of the Agreement, set out the circumstances in which Barclays are allowed to debit T's account in respect of payments they've already made. Including where a claim is received from a card holder for not receiving services from the merchant. It goes on to say:

*"if you have to pay us back for a **chargeback**, the amount will be a debt from you to us which you will owe immediately and you agree that we have the right to deduct the relevant amount from your bank account."*

In the circumstances, and although I anticipate this will come as disappointing news to T, I do not find Barclays has acted unfairly when they deducted the ££3,943.50 from its account and declined its request that it should be reimbursed.

My final decision

For the reasons stated above, my final decision is I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask T to accept or reject my decision before 12 September 2023.

Asher Gordon
Ombudsman