

The complaint

Ms M complains that NewDay Ltd (NewDay) hasn't refunded money under a chargeback request she made.

What happened

Ms M purchased an item from an online merchant in February 2021 for a total cost of £92.99 using her NewDay backed credit card.

Ms M says she never received the item she'd ordered. After unsuccessfully raising her concerns with the merchant, she contacted NewDay asking them to assist her in retrieving her money.

NewDay temporarily credited Ms M's account whilst it raised a chargeback dispute, however the merchant defended the chargeback saying the item had been delivered to the address provided by Ms M. Following the merchant's defence, NewDay declined Ms M's claim and re-debited her account.

Ms M complained to NewDay about the outcome. She asked them to review their decision saying the retailer is responsible for goods up until they are delivered. She requested NewDay make a claim under Section 75 of the Consumer Credit Act 1974 (CCA) to retrieve her funds, but they didn't uphold her complaint.

Ms M brought her complaint to our service and one of our investigators looked into things. She said chargebacks are decided by the scheme's rules and not on the merits of the dispute between Ms M and the retailer, and as the retailer had provided evidence to show the item had been shipped to the address Ms M had provided, she didn't think NewDay needed to do anything else.

Our investigator also explained raising a Section 75 claim wasn't an option for NewDay, as the cash price of the item purchased was below £100.

Ms M remained unhappy, so the complaint has been passed to me to decide.

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, although I appreciate it'll be a disappointment to Ms M, I'm not upholding her complaint and for much the same reasons as our investigator. I'll explain why.

First, I think it's important to say I understand Ms M's concerns, she paid for an item which she says she's not received, and I have no reason to doubt her. But it's also important to say that my role isn't to look at the merchant's responsibilities under the Consumer Rights Act 2015, my powers don't allow me to do this. Instead, my role is to decide if NewDay acted fairly and reasonably when attempting to retrieve Ms M's money.

Due to the cash value of the transaction this isn't a section 75 claim which would've given Ms M a legal right to claim against NewDay if the merchant is in breach of contract. Because

Ms M's transaction was less than £100, NewDay could only raise a chargeback claim on her behalf but this doesn't give her an automatic right to a refund.

The chargeback scheme is voluntary, and a card issuer doesn't have to do a chargeback. But NewDay did raise a claim for the reason of goods or services not being provided. As Ms M's claim is that she's not received the item, I'm satisfied NewDay raised the claim correctly.

Chargebacks are decided based on the specific card schemes rules, not on the merits of the dispute between the cardholder and the merchant. In this case it is the Mastercard schemes rules that apply. Where the merchant defends the chargeback, the bank doesn't have to carry out a detailed investigation, rather they must decide if the evidence provided satisfies the schemes rules.

I've looked at the chargeback schemes rules Mastercard set out. They say for a merchant to defend a chargeback claim against goods and services not provided:

'The acquirer can provide evidence to support one of the following:

- The goods or services were provided.*
- The merchant was willing and able to provide the goods or services and the cardholder refused to accept the goods or services.*
- The merchant and the cardholder agreed to provide the goods or services at a later date.*
- The chargeback was invalid.'*

In this case the merchant has provided evidence that the goods in this instance were shipped to the address provided by Ms M when she placed her order. I understand Ms M has challenged why the merchant hasn't provided evidence the item was successfully delivered; however, the specific rules here don't require them to. So, I can't fairly ask NewDay to ask them to do this.

I can understand why Ms M is unhappy. She's clearly had issues receiving previous orders from the same merchant which she's brought to our attention, but it's important to say I can't look into a dispute between her and the merchant. What I have looked into is if NewDay have fairly applied the chargeback scheme rules.

Whilst I'd like to reassure Ms M I'm not saying I think the item was delivered or not, under the chargeback rules I think NewDay has made a reasonable attempt to get her money back and I'm satisfied the evidence they were provided by the merchant meets the rules of the scheme. So, I can't fairly ask NewDay to do any more.

My final decision

For the reasons I've explained above, my decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 5 October 2021.

Sean Pyke-Milne
Ombudsman