

The complaint

Mr F complains about how Lloyds Bank PLC (“Lloyds Bank”) dealt with his question about obtaining a refund.

What happened

Mr F had booked a holiday and used his Lloyds Bank credit card to pay the deposit. However, Mr F was unable to take the holiday as he no longer had the money to pay the balance. Therefore Mr F contacted the supplier a third party I will call “T”. T told him he could change the date of his holiday, but he'd have to pay an administration fee of £100 per person. Further, he'd have to pay any difference in the cost between the original holiday and the new holiday. T also told him that the deposit was non-refundable.

Mr F rang Lloyds Bank he wanted to know what his options were regarding the deposit. Specifically, he wanted to know if he could get his deposit back if he cancelled the holiday. According to Mr F, Lloyds Bank told him to cancel his holiday and Lloyds Bank would compensate him. However, when he did this Mr F found that Lloyds Bank did not help him get his money back, rather it now told him it had no grounds to do this. Mr F's tells us he would have gone on the holiday if he had known he was not going to get his deposit back. Mr F considers he has lost £500 (the amount of his deposit) due to a mistake made by Lloyds Bank and he wants it to compensate him for this.

Lloyds Bank agreed it had talked to Mr F by phone. There had been two calls, but it only had the recording for the first of the two calls. In the first call Lloyds bank did not say it would compensate Mr F if he cancelled his holiday. But because it could not find the recording for the second call it paid him £50 to compensate him for this.

Lloyds Bank added there was nothing further it could do. This is because T's terms and conditions said the deposit was non-refundable. Mr F agreed to these terms and conditions when he booked with T. Therefore there was no route open to Lloyds Bank to seek a refund on his behalf.

Dissatisfied Mr F complained to our service.

One of investigators looked into Mr F's complaint. Our investigator did not recommend that Mr F's complaint ought to be upheld.

Lloyds Bank accepted this recommendation, Mr F did not. Mr F repeated his previous stance.

Mr F asked that an ombudsman review his complaint.

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.

First, I'm very aware that I've summarised this complaint in far less detail than the parties and I've done so using my own words. I'm not going to respond to every single point made by all the parties involved. No courtesy is intended by this. Instead, I've focussed on what I think are the key issues here.

Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. Rather, I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome.

Where the evidence is incomplete, inconclusive, or contradictory (as 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.

Ideally we would have the recording of the second call, so we'd know exactly what had been said. But that recording is not available as it does not appear to exist or at least Lloyds Bank can't find it. However, we do have Mr F's first-hand account of the conversations he had. That said I'm mindful that Mr F has not been consistent about what he was told by Lloyds Bank and when. For example, in Mr F's initial complaint to Lloyds Bank which was a written complaint made on the day that the event he complained about happened, he wrote.

"I called about 1219 today 03/08/2022 to ask whether I could get my deposit back if I cancelled a [T] package holiday. I cannot afford to go on it anymore and paid a £500 deposit on 13/08/2021 on my credit card.

The woman I spoke to on the phone said that I had to cancel the holiday and then call back and then could raise a dispute.

I have now cancelled the holiday today. I called back to raise a dispute and was told that we cannot raise a dispute because [T] haven't breached their terms and conditions."

There is no mention here of Lloyds Bank saying it would definitely compensate him or compensate him at all, merely that he could raise a dispute. However, Mr F now says he called Lloyds Bank before cancelling the holiday he explained his situation and in response:

"someone [at Lloyds Bank] said cancel the holiday, get back to us, and we will compensate you".

Mr F's later version of events is materially different from his earlier one. I think the version of events he gave when the call was fresher in his mind is more likely to be the more accurate account.

Moreover, although Mr F now says that it was in the second call that Lloyds Bank promised him compensation, in a call with us he said it was in the first call, the recorded call. And compensation is not mentioned in that call. But then later, he said it was the second call.

With such inconsistencies in mind I have some difficulty accepting the accuracy of Mr F's recollections about the phone calls.

Further, in the circumstances, I find it unlikely that with only the barest of facts about the situation an employee of Lloyds Bank would have categorically told Mr F that the bank would compensate him. How would Lloyds Bank be able to determine with the details it had what Mr F would be compensated for and on what basis? However, I do find it likely that as Mr F initially indicated that the employee would have said the bank would raise a dispute. However, that is a different matter entirely.

Even if I was persuaded, which I am not, that Lloyds Bank told Mr F it would compensate him and he relied on this, I would then have to look at what difference this would have made.

From what Mr F said at the time he would not have been able to go on the original holiday as he just did not have the money at that point to pay for it. So when he tells us he would have gone on the holiday if he had known he could not get his deposit bank via the bank, what he is saying presumably is he would have changed the date of the holiday. To do this he would have had to pay the £100 per person administration fee and pay the balance. The balance would have included the difference (if any) between the cost of the original holiday and the new holiday.

The difficulty for Mr F is this, Mr F also told Lloyds Bank in the first call that he was unlikely to be able to pay in the future for the holiday. So it follows that either way Mr F would most probably have lost his deposit.

So for all of these reasons, I've no proper basis for saying Mr F lost £500 because of the actions of Lloyds Bank and it must put things right.

For completeness I'll add there were two potential routes that Lloyds Bank could have gone down to get Mr F his deposit back, namely a claim under a process known as chargeback or a claim against itself under Section 75 of the Consumer Credit Act 1974 ("section 75").

But on the facts of this complaint neither claim would have succeeded on balance. This is because to succeed with a chargeback claim there needed to be a valid chargeback reason under the chargeback rules and there is not one. Moreover, to succeed under section 75 there would need to be a misrepresentation or a breach of contract for which T was responsible and there was none.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 24 March 2023.

Joyce Gordon
Ombudsman