

The complaint

Miss M complains about the way NewDay Ltd handled a dispute over a holiday villa booking which was cancelled during the Covid-19 pandemic.

What happened

I issued a provisional decision on this case on 14 October 2022, asking both parties to provide any further comments they wished me to consider by 28 October 2022.

In my provisional decision I said I was not minded to uphold Miss M's complaint. By the time the complaint had reached me there was only one remaining point in dispute, which was whether NewDay should pay additional compensation for customer service failings. However, I will briefly outline what the complaint was originally about.

Miss M had used her NewDay credit card to book a holiday villa in Spain via a well-known online booking platform ("B"), for the price of £2,010.90. As a result of the pandemic, Miss M had to cancel her booking. Although the booking had been non-refundable, she thought she should receive a refund because B had a specific pandemic policy which she believed would cover her booking and enable her to obtain a refund.

B refused to refund Miss M however, so she asked NewDay to help. It tried to "chargeback" the card payment, and put a temporary refund onto Miss M's account while this process was ongoing. This left Miss M's account in credit so she rang up and had the credit balance transferred to her bank account. A few weeks later NewDay reversed the refund, leaving Miss M with a large debit balance. NewDay then considered whether it should refund Miss M under section 75 of the Consumer Credit Act 1974 ("CCA") but decided it was not liable to do so.

Miss M was unhappy about both NewDay's decision not to refund her, and it failing to warn her that the refund it had put in her account was only temporary and could be reversed.

In my provisional decision I came to the following key conclusions:

- Miss M had made a non-refundable villa booking. B's pandemic policy was intended to cover scenarios where travel to a destination, or staying at a particular accommodation, was impossible or illegal due to the pandemic.
- The scenarios contemplated by B's policy didn't apply in Miss M's case, as it had not been illegal or impossible for her to travel to Spain or use the villa. She'd had good reasons for not travelling but they didn't entitle her contractually to a refund.
- Because Miss M hadn't been entitled to a refund from B, NewDay hadn't acted unreasonably in refusing to pursue a chargeback further than it did, or in turning down her section 75 claim.
- Miss M had completed and signed a form which warned her that the refund could be reversed. The form was not complicated and there's a general principle that when

someone has signed something they're taken to have read and understood it. I thought she ought to have realised the refund might be temporary.

- While NewDay's customer services staff hadn't warned Miss M that the refund might be temporary when she asked them to transfer the credit balance to her bank account, I wouldn't necessarily have expected them to. The department she spoke to was unfamiliar with the underlying dispute and there was no suggestion that the conversation should have prompted further questioning or a referral to another department in relation to the refund.
- There had been some errors by NewDay but they had been minor and the modest compensation it had already paid (£30) was sufficient to cover these.

NewDay responded to my provisional decision to say it agreed with the findings. Miss M did not reply. The case has now been returned to me to review once more.

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.

Because neither party has given me any new comments, arguments or evidence to consider, I see no reason to depart from the findings and conclusions reached in my provisional decision, as summarised above.

As I mentioned in my provisional decision, I don't lack sympathy for Miss M. She, like many others who had holidays booked which coincided with the pandemic, has lost a significant sum of money. But I don't think NewDay acted unfairly or unreasonably in declining to refund her. And this was because Miss M didn't have a contractual right to a refund of her booking, in her particular circumstances.

My final decision

For the reasons explained above, I do not uphold Miss M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 29 November 2022.

Will Culley
Ombudsman