

The complaint

Mr W says that NewDay Ltd (who I'll call "NewDay") were unreasonable not to process a chargeback claim or to progress a claim under section 75 of the Consumer Credit Act ("section 75") for him.

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here. Instead, I'll focus on giving my reasons for my 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 know it will disappoint Mr W, and I was very sorry to hear about his cancelled trip and mother's ill health, but I don't think NewDay have done anything wrong here and I'm not asking them to take any further action.

I note that Mr W has another complaint with this service on a similar matter where he is representing his mother. For clarity I would explain that I'm only considering Mr W's claim against NewDay here.

Where the information I've got is incomplete, unclear, or contradictory, as some of it is here I have to base my decision on the balance of probabilities.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

When something goes wrong and the payment was made with a credit card, it might be possible to make a chargeback claim. The chargeback scheme isn't administered by NewDay, it's administered by Mastercard, and they set the rules. NewDay didn't have to submit a chargeback claim but I'd think it good practice for them to do so where the right exists and there is a prospect of success.

Mr W had used his credit card to purchase a voucher from a digital coupon provider I will call "G". So, when NewDay were considering whether something had gone wrong it was *that* transaction they needed to review and *not* the subsequent transaction when Mr W used the voucher to pay for hotel accommodation.

I don't think there was any evidence that anything had gone wrong with the purchase of the voucher, so NewDay weren't unreasonable not to submit a chargeback claim to the chargeback scheme administrators. That would have been likely to fail as the goods had been received and there wasn't evidence that G hadn't adhered to its terms and conditions or misrepresented the product.

It may also have been possible to raise a claim under section 75. That says that in certain circumstances, the borrower under a credit agreement has a like right to claim against the credit provider as against the supplier if there's either a breach of contract or misrepresentation by the supplier.

But there was no evidence of a breach of contract or misrepresentation by G (the supplier) as they had provided the voucher they'd been asked to supply. So, again, I don't think NewDay were unreasonable not to process a section 75 claim as I think it's likely it would have failed.

For a claim to be made under section 75 there needs to be a relationship between the debtor (Mr W), the creditor (NewDay) and the supplier. Whilst there was a valid link between Mr W, NewDay, and G for the purchase of the voucher. There wasn't a link between the hotel and NewDay and therefore a section 75 claim couldn't be raised by NewDay in relation to the failed hotel booking.

It is for those reasons that I don't think NewDay have been unreasonable here and I'm not asking them to take any further action.

My final decision

For the reasons I've given above I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 14 March 2023.

Phillip McMahon
Ombudsman