

The complaint

Miss P complains about how Lloyds Bank PLC dealt with her chargeback dispute about a supplementary charge on her holiday booking.

What happened

In January 2023, Miss P used a voucher from a third party to pay for a package holiday. The holiday was to be spent in two foreign cities, so it involved two hotels and three flights. The voucher said it was for a deposit of £109 and that Miss P would have to pay the remaining £860 directly to the holiday organiser (another third party, which I will call “the merchant”). So the total advertised price was £969.

Miss P says the merchant’s terms and conditions said that there would be no extra charge if she made any changes to her holiday booking, but when she later asked to change one of the hotels she noticed that she had already been charged an extra £400. She had paid a total of £1,260 with her Lloyds debit card. She says that she never agreed to pay the extra £400, and that this charge was a scam.

Miss P asked Lloyds to raise a chargeback dispute that same day. She asked for a refund of the entire cost of the holiday, because she had not travelled. It took Lloyds 16 weeks to resolve her case, and then it closed her case in favour of the merchant. There is a dispute about how this came about. Miss P says that Lloyds never asked the merchant why it had charged her the £400. Lloyds says it did ask, and that the merchant’s answer was convincing: she had not been entitled to change her booking for free, and so she had been properly charged for making the changes.

It is not in dispute that when Lloyds raised the chargeback dispute, Lloyds temporarily credited the disputed amount (£1,260) twice by mistake. Miss P did not notice that at the time. When the dispute was closed in May, Lloyds re-debited £1,260 from her account. Then in June, Lloyds re-debited the second amount, which brought her account balance well beyond her overdraft limit. This caused her financial difficulty and considerable stress, and she says it affected her credit file. Lloyds apologised and paid her £40 for this error, but it did not say what it was going to do about the impact on her credit file. Miss P says £40 does not begin to reflect the anxiety and distress she felt.

Miss P brought this complaint to our service, about both of the above matters. (She also told us that Lloyds had advised her not to travel, as this could prejudice her chargeback dispute, so she hadn’t gone on the holiday. She therefore wanted a refund of the entire cost, £1,369. That new issue is being dealt with as a separate complaint, so that Lloyds can have an opportunity to investigate it.)

Lloyds said that it had taken the chargeback dispute to the pre-arbitration stage (a second stage to the process, which may or may not be pursued if a chargeback is not initially successful). It said that the evidence subsequently provided by the merchant had been strong enough to defend the claim. It also said the apology and £40 were fair compensation for its administrative error. It provided recordings of its phone calls with Miss P. (It didn’t mention her credit file.)

One of our investigators considered this complaint, but she did not uphold it. She said that when Lloyds had raised a chargeback dispute, the merchant had responded with convincing evidence that Miss P had not been entitled to a free amendment to her holiday, and that no refund was due to her. This evidence had included an email from the merchant confirming that there would be a £400 fee for changing her booking. She therefore decided that Lloyds had pursued the dispute as far as it reasonably could. She thought £40 was fair compensation for the double re-debit.

Miss P did not accept that opinion. She explained that her case was not that the merchant had charged her £400 to amend her booking; rather, the £400 had been charged when she first made the booking, as part of the original price, and this had never been explained. She had only noticed the inflated price later on, when she had applied to change her hotel. She said she hadn't received anything extra for that extra money, only the same holiday as had been advertised in the deposit voucher. In other words, she had not been charged the advertised price shown on the voucher; she had been overcharged. Miss P asked for an ombudsman to review her case. I wrote a provisional decision which read as follows.

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.

When was the £400 charged, and what was it for?

First of all, it is necessary for me to establish just what the £400 was for. Three different scenarios have been suggested by the merchant, Lloyds and Miss P:

1. The original price was £969, and another £400 was charged a bit later on because Miss P made some changes to her booking. (She made changes on three occasions: first she changed the dates of her flights, then the hotel in her first destination city, and lastly her second destination city – of course, that meant changing the second hotel and the second and third flights.)

This is one interpretation (but not necessarily the only possible interpretation, as we shall see) of what the merchant told Lloyds in its defence to the chargeback dispute.

2. At the time of booking, Miss P paid an extra fee of £400 for the option to make free changes to her booking later, for which she would otherwise have been charged.

Lloyds's internal records say that this is what Miss P told it on the phone when she first raised the chargeback dispute.

3. The advertised price was £969, but Miss P was charged £400 more than that before she sought to change her hotel, and this has never been explained or properly itemised on any invoice or other document.

This is what Miss P has told our service.

However, I think the answer is none of those, but a fourth scenario. I will explain why.

The original booking was made on 11 January 2023. I have seen an invoice dated 11 January, which says that the total holiday cost was £1,369, but which does not give any break down of this figure to show how it was reached. But it must consist of the £109 deposit

(paid with a voucher), the balance of £860 which was mentioned on the voucher (as I've already said), and the disputed £400.

I've seen evidence showing that Miss P's Lloyds debit card transaction for £1,260 was dated 12 January, and the parties do not contest that date. So I am satisfied that the £400 charge was indeed included in the original booking price at the time of booking. It wasn't added later.

I have seen a booking confirmation which the merchant sent to Miss P. It is undated, but it must have been sent on a date between 11 and 19 January at the latest. For a reason I will describe in a moment, I think it was probably sent on 11 January or the next day. It contains this paragraph:

"As per our telephonic conversation, the dates for the holiday are being changed from 27 Jan & onwards to 07 Feb onwards for 8 nights instead of 9 nights as per the deal & there will be no reimbursement on the same."

The invoice of 11 January gives the February dates for the holiday, not the January dates. So the dates of the holiday must have been changed on 11 January.

(That booking confirmation also describes both the hotels as "Amended Accommodation," although that might just be a reference to the dates of check-in and check-out having changed, and not the hotels themselves.)

The booking confirmation then goes on to give the following breakdown of the total price:

"Deposit: £109
Total Voucher Value: £969
Supplement: £400
Total Supplement: £1,260"

That isn't as clear as it could have been, because it doesn't give the total price, and it describes everything but the deposit as a supplement. But it does make it clear that the £400 had been charged and included in the price by then. And while it doesn't expressly say that the £400 was for changing the dates of the flights and the hotels, I think it is reasonable to infer that that must have been what it was for. I am reinforced in that conclusion by the facts I have found in the next section, but before I move on to that, I will mention the other changes Miss P requested, for completeness.

On 19 January, Miss P asked to stay at a different hotel at her first destination. The merchant told Lloyds that it had done this at no extra cost to Miss P. I accept that, because the extra fee of £400 had clearly already been charged by then.

On 31 January, Miss P asked to change the second destination city. This necessarily involved changing two flights and one hotel. The merchant told Lloyds that it did charge extra for this, but I have seen no evidence of that extra charge; as I've said, the £400 had already been charged earlier, and the total cost of the holiday certainly did not exceed £1,369. This discrepancy does support Miss P's contention that the merchant's evidence about the reason for the £400 charge is unreliable, but not to the extent that its defence to the chargeback was untenable.

I have seen no direct evidence to support scenario 2, that Miss P paid an extra £400 so that she could make changes to her holiday for free. (I suppose that could be inferred from the fact that no charges were incurred for the changes she requested on 19 and 31 January, but

I would expect there to be some written record of such an option having been purchased, and the merchant's terms and conditions don't even mention such an option existing.)

So on the balance of probabilities, I think that the £400 was added to the original total price as a charge for booking the holiday in February instead of January, and then the new price was charged to Miss P's card at the time of booking.

Scenario 4

I don't mean that Miss P booked a holiday for January and then changed it to February. Rather, the price stated on the voucher was for certain dates, and Miss P booked some other dates that cost more.

Miss P has pointed out that in the terms and conditions printed on the back of the voucher, clauses 5 and 6 say:

- “ • Valid for travel on selected dates from 20th May 2022 until 21st Dec 2023.
- Valid for selected flights only on these dates;
supplementary charges may apply for alternative flights.”

Miss P argues that this clause means there can be no supplementary charges for things other than “alternative flights”, and that “alternative flights” means any flights not between those two dates. Consequently, as she only booked flights within that period, she should not have been charged for any of the changes she made to her booking.

I'm afraid I don't agree with that. “Selected dates” and “selected flights” do not mean every date and every flight between 20 May 2022 and 21 December 2023. “Selected” must mean some dates and some flights, and not others. So I think “alternative flights” just means flights other than selected flights. The voucher only says that it is not valid for holidays before 20 May 2022 or after 21 December 2023 (and it also excludes some of the flights and dates within that period).

Even if I took a different view about that, it still wouldn't mean the voucher says that the merchant can't charge for changing the booking. “Supplementary charges may apply for alternative flights” is not the same thing as “Supplementary charges may *only* apply for alternative flights.”

So I think that the £400 charge was for booking dates in February, which were not the selected dates mentioned on the voucher.

Could Lloyds have pursued the chargeback dispute further than it did?

Once Lloyds had received the merchant's evidence defending the chargeback at the pre-arbitration stage, it decided it could take the matter no further, and closed Miss P's claim. I think it was entitled to do that, because there was no evidence to suggest that the merchant could not charge for changing the holiday dates, or that it had not been asked to change them.

Miss P has expressed scepticism about the merchant's evidence, but the chargeback process is not like litigation, in which each party can seek to examine the other's case in detail. Lloyds was entitled to accept this evidence at face value and to decide that the merchant had been entitled to charge her.

So for the reasons I have set out above, I am satisfied that the outcome of Miss P's chargeback dispute was not the result of a banking error by Lloyds.

The double debit

It is not in dispute that Lloyds erred in temporarily crediting the transaction twice, which resulted in it re-debiting it twice, causing Miss P to exceed her overdraft limit in June. I don't agree that an apology and £40 compensation is enough to make up for that, for two reasons. Firstly, the result was that an unauthorised overdraft was reported to her credit file that would not otherwise have been there. That wasn't her fault, and so I think that data should be amended to show an authorised overdraft instead (I invite submissions from both parties as to the length of the period that this amendment should cover).

Secondly, although Lloyds did not realise that Miss P was a vulnerable customer, the ensuing financial worry caused her depression and anxiety. I think that £150, rather than £40, would better reflect that.

So I am currently minded to uphold this complaint in part, and to order Lloyds Bank PLC to pay Miss P £110 (in addition to the £40 it has already paid her), and to amend her credit file in the way I have set out above.

Responses to my provisional decision

Lloyds accepted my provisional findings. Miss P did not. She argued that on the day after her first flight, the merchant cancelled all of her flights. She says she is therefore entitled to a full refund of those flights, as the merchant's terms and conditions say that it will refund flights if it cancels them. However, as Miss P didn't go on the first flight, I think the merchant reasonably treated this as a cancellation by her without notice.

My final decision

My decision is that I uphold this complaint in part. I order Lloyds Bank PLC to pay Miss P £110 (in addition to the £40 it has already paid her), and to amend her credit file in the way I have set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss P to accept or reject my decision before 15 March 2024.

Richard Wood
Ombudsman