

## **The complaint**

Mr G has complained that NewDay Ltd trading as Partnership Card failed to obtain a refund for a transaction made using his NewDay credit card.

## **What happened**

In March 2024, Mr G hired a cement mixer from a company that I'll refer to as T. Mr G paid for the hire using his credit card. But Mr G changed his mind and returned the cement mixer ten minutes later. Mr G says T promised to refund the hire cost within a few days.

On 11 April 2024, Mr G called NewDay to check if T had processed his refund and he was passed through to NewDay's Disputes Team. Mr G was told that to raise a chargeback, he'd need to provide evidence he was due a refund, the timescales for the refund and evidence of any attempts to resolve things with T. In response, Mr G said he'd resolve things with T himself – but NewDay said he could get back in touch if he wanted to raise a dispute. NewDay also, by mistake, incorrectly set up a payment holiday for Mr G's credit card.

Mr G wrote to NewDay the next day to complain about the service he'd received. NewDay issued its final response to Mr G's complaint. NewDay apologised for its mistake in setting up a repayment holiday, paid Mr G £80 compensation and refunded the interest applied to his May 2024 statement. NewDay added that if Mr G didn't receive a refund from T, he should contact its Disputes Team or raise the issue online.

Unhappy with this response, Mr G referred his complaint to our service. Since then, Mr G says T promised him it had processed his refund. And when Mr G contacted NewDay to confirm the refund had been processed, NewDay told him to check his balance and transactions online.

Our Investigator thought NewDay wasn't obliged to raise a chargeback on Mr G's behalf. But even if NewDay had raised a chargeback, it was unlikely to have succeeded. They also said it's unlikely a claim under Section 75 of the Consumer Credit Act 1974 ('Section 75') would have succeeded. This was because there was insufficient evidence the merchant had breached its contract with Mr G, or misrepresented anything. Our Investigator thought NewDay had done enough to resolve the payment holiday issue. Mr G didn't accept our Investigator's opinion, so this has come to me for a 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.

When a person approaches their credit card provider for assistance when something has gone wrong with a purchase they've made, there are a couple of ways in which their provider may be able to help. The provider could potentially attempt what is known as a "chargeback" on any payments made with the card, and they could consider a claim under Section 75 of the Consumer Credit Act 1974 ('Section 75').

### Chargeback

When a person buys goods or services using a debit or credit card, there is no automatic right to a refund from their card provider if something goes wrong with their purchase. However, a card provider may be able to help their customer through the dispute resolution system administered by the card scheme whose logo appears on the card (Mastercard, in this case).

It is often good practice for a card provider to attempt a chargeback where there is a reasonable prospect of success. However, a chargeback is not a legal right and there's no guarantee the card provider will recover their customer's money through this process.

Under Mastercard's rules, the time limit for Mr G to raise a chargeback expired in July 2024. As it's now too late to raise a chargeback, I've considered whether NewDay should have raised a chargeback in time.

Having listened to Mr G's call with NewDay on 11 April 2024, Mr G said he'd pursue things with T himself. NewDay explained to Mr G he could get back in touch to raise a dispute if he chose to and explained the evidence he'd need to provide. Mr G then seemed to be under the impression T had processed his refund, and later contacted NewDay when it didn't appear in his account. I can't see anywhere that he then asked NewDay to raise a chargeback before the July 2024 deadline passed. So, I don't think NewDay acted unreasonably by not raising a chargeback. But even if a chargeback had been raised, I think it's unlikely it would have been successful.

Under Mastercard's rules, Mr G could potentially have raised a chargeback for a "credit not processed". For a successful chargeback, Mr G would have had to show T agreed to provide a refund then failed to process it.

Mr G says T promised him a refund on many occasions. Mr G has been asked to provide an email with confirmation of the refund due, but he hasn't done so. From the emails Mr G has provided, I can see T indicated it would provide a refund, but I can't see any confirmation that the refund relates to the hire Mr G has claimed a refund for or how much it would refund. Overall, I don't think there is sufficient evidence to show T promised to refund the full amount Mr G wants refunded. Because of this, I don't think it's likely a chargeback would have succeeded.

### Section 75

As Mr G didn't get back in touch with NewDay to raise a dispute, I don't think NewDay acted unreasonably by not considering a claim under Section 75. But even if it had, I think it would have been reasonable for NewDay to decline Mr G's claim.

In certain circumstances, Section 75 gives a consumer an equal right to claim against the supplier of goods or services or the provider of credit if there has been a breach of contract or misrepresentation by the supplier. For Section 75 to apply, the law effectively says that there has to be a debtor-creditor-supplier agreement and a breach of contract or misrepresentation by the supplier (T)

I think it's likely there's a valid debtor-creditor-supplier agreement here. But I've seen no evidence of misrepresentation on T's part. Instead, Mr G has said he was promised a refund by T, which could potentially be a breach of contract. Mr G has provided the invoice and the emails mentioned above. But these do not show the terms of Mr G's contract with T. So, there is no written evidence, for example, that T was contractually obliged to provide a refund once the goods were returned. As such, I think it would have been reasonable for NewDay to decline a claim under Section 75, and Mr G hasn't lost out because NewDay didn't consider such a claim.

#### NewDay's payment holiday mistake

NewDay accepted it applied a payment holiday in error, and it's confirmed no adverse information was recorded on Mr G's credit file. NewDay also credited Mr G's account with £80 compensation as well as refunding interest and a late payment charge. So, the only question for me to consider here is whether it needs to do more.

Mr G says his credit score dropped after NewDay mistakenly applied the payment holiday to his account. But the information provided by NewDay shows it hasn't recorded adverse information on Mr G's credit file, so I think there's insufficient evidence to show the drop in Mr G's credit score was due to NewDay's actions. Mr G also hasn't provided any evidence of a financial loss caused by any information recorded on his credit file, so I don't think NewDay needs to do anything further.

I think NewDay's payment of £80 compensation fairly reflects the inconvenience its actions caused Mr G. Mr G says it took numerous phone calls and letters to sort things out. But Mr G only had to call NewDay once to highlight its error, which it fixed promptly. Mr G spoke to NewDay on other occasions about this issue but I've not seen that NewDay was the cause of this further inconvenience or that it made other errors in its handling of this issue. So, I'm not persuaded it would be fair or reasonable to require NewDay to pay Mr G further compensation.

#### **My final decision**

For the reasons explained above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 3 June 2025.

Victoria Blackwood

**Ombudsman**