

The complaint

Ms M complains that National Westminster Bank Public Limited Company (“NatWest”) hasn’t refunded two payments taken from her account.

What happened

In November 2023, Ms M booked a package holiday through a provider I’ll refer to as “L”. The cost of the package was £1,280.99 and included flights, accommodation and travel insurance. Ms M paid a deposit of £180 using her NatWest credit card but then cancelled the booking within two hours. A few days later L debited a further £933.24 from her credit card, which it said was to cover cancellation costs.

Ms M complained to L about the amount taken. She said she had cancelled within a matter of hours and the booked package holiday wasn’t scheduled to take place until many months later. She didn’t consider the cancellation costs to be reasonable or proportionate in the circumstances. She said that L ought to be able to re-sell the flights and hotel to recoup any losses it might have incurred. L didn’t agree and said its terms of booking set out that no refund would apply in these circumstances.

Ms M contacted NatWest for help in getting her money back. NatWest said that it didn’t have any grounds on which to challenge the payments under the chargeback scheme and it didn’t think it was jointly liable under section 75 of the Consumer Credit Act 1974 (“section 75”) either.

Our investigator didn’t recommend the complaint be upheld. He didn’t think Ms M had sufficiently demonstrated any breach of contract by L and therefore NatWest weren’t required to refund the payments that were taken.

Ms M didn’t agree. In summary, she said that the cancellation charge was not reasonable in the circumstances and that both the charge and L’s actions went against the Consumer Rights Act 2015 (“CRA”) and The Package Travel and Linked Travel Arrangements Regulations 2018 (“PTR”).

The complaint has been passed 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.

As the payments for the package holiday were taken from Ms M’s NatWest credit card, I’ve thought about whether it did enough to assist her in getting her money back. Having done so, I’m satisfied it has acted fairly and reasonably towards her, so I won’t be directing it to do anything to put things right. I’ve set out my reasons for reaching this conclusion below.

Ms M initially asked NatWest to prevent the payment of £933.24 from being taken by L. However, it seems L had already initiated the payment request through the card scheme at

that time, so NatWest correctly explained it was unable to stop it. NatWest can in some circumstances attempt to reverse a payment that has been taken through the card scheme by a process known as chargeback.

A chargeback doesn't guarantee a refund as it can be defended by the merchant and is only applicable in very specific circumstances which are set out in the card scheme rules. Further, NatWest isn't obliged to complete a chargeback when a customer asks for one. However, I would consider it good practice for NatWest to do so where the right existed and where there was a reasonable prospect of success.

NatWest chose not to attempt a chargeback because it didn't think it had any grounds on which to attempt one or that it had any prospect of success if it did. This was because it said that L had applied the cancellation charge in line with its terms and conditions which Ms M had accepted at the time of booking. While Ms M believes those terms to have been unfair and in breach of both the CRA and PTR, that isn't something I'm persuaded the card scheme would have taken into consideration within its rules.

Ms M is seeking to argue relatively complex legal arguments – such as unfair contract terms under the CRA (which are a matter for the Courts) – and these kinds of disputes is not something the chargeback scheme is designed or intended for. I don't therefore think NatWest acted unfairly or unreasonably in not pursuing a chargeback any further as I don't think there was any reasonable prospect of success. Given L did appear to adhere to the terms Ms M agreed to (putting aside any argument about the fairness of those terms), I find it unlikely any chargeback would have succeeded.

The issues Ms M raised are however relevant when NatWest considered its liability under section 75. However, I don't think NatWest acted unfairly or unreasonably in not upholding her claim or complaint under section 75 either.

The general effect of section 75 is that if Ms M has a claim for breach of contract or misrepresentation against L, she can bring a like claim against NatWest, as the provider of credit for her purchase. There are other criteria that also need to be met for a claim to be made, and for completeness, I'm satisfied those are met here. Ms M argues there was a breach of contract by L, so I've thought about whether there is sufficient evidence to demonstrate that to be the case.

I think it's helpful to highlight that it was Ms M's choice to cancel the package holiday. This was not because of anything L did or didn't do. Ms M said she needed to make changes to the booking and therefore cancelled in order to rebook with the correct details. I've not seen anything to suggest L made any mistake with the original booking.

L's cancellation policy set out that the flights were non-refundable and the hotel cancellation charge was approximately 50% of the total package price. As a starting point, it doesn't therefore seem unreasonable that L retained everything except around £160 (the value of the travel insurance she had purchased plus approximately a further £60).

Ms M says that this cancellation charge is both unfair and disproportionate and that it is unjust enrichment. While I understand Ms M's strength of feeling on this issue, based on the available evidence, I don't agree.

As I've said, L's cancellation policy makes the charges for cancellation clear, so Ms M was made reasonably aware of what might be charged if she chose to cancel. She says that L hasn't demonstrated that it has suffered a loss to the value that it has charged her and has sought to argue that L could simply have resold the hotel accommodation and flights to recoup any losses. But I've not seen anything to persuade me that's the case.

I've seen that the airline that was due to provide the flights generally sells the type of tickets Ms M selected as non-refundable. When Ms M booked the package holiday, L says it paid for the flights immediately with the airline in full. I accept that is likely the case as otherwise it could not have given Ms M any confirmation that she was booked onto the flights she had selected. While Ms M says she cancelled within two hours, I'm satisfied the flights had already been paid for as she received her confirmation email from L confirming her booking. Given the airline appears to sell these flights as non-refundable, it's not unreasonable to conclude that L would be unable to get a refund for what it paid.

In relation to the hotel, I've seen that L offers some hotel bookings with both refundable and non-refundable options. Non-refundable bookings are generally cheaper. Ms M hasn't provided anything which demonstrates she made a refundable hotel booking as part of the package holiday. Therefore, just as with the flights, as it's likely L had already paid the hotel and that it was likely at a non-refundable rate, it doesn't seem unreasonable to conclude that L wouldn't be able to recover what it had paid for the hotel booking.

Ms M says under the PTR, L is obliged to demonstrate that the cancellation charge is fair. I've seen correspondence between Ms M and L and I agree with Ms M that L hasn't been as forthcoming with her as it could have been concerning the costs it incurred. However, based on the available evidence, I currently haven't seen anything to persuade me that what it has charged Ms M is unreasonable and doesn't fairly cover its reasonable costs in cancelling the package holiday.

When Ms M cancelled the package, L says it cancelled the booking with the hotel and airline. I'm not persuaded L was therefore ever in any position to resell them to someone else. The bookings had been made in Ms M's name and had been cancelled with the suppliers. I've not seen anything to indicate L retained any booking, tickets or similar in its name for which it could resell to someone else. After all, the end supplier of these things was the airline and hotel (or hotel booking provider), not L. As far as I can see L will have likely lost the money it paid to both so needed to recoup those losses from Ms M as per its cancellation policy. I can't therefore see that the contract terms were likely to be unfair as they appear to cover the reasonable costs incurred by L due to Ms M's decision to cancel.

Ms M says the contract terms are unfair because she says they impose unreasonable charges on her for cancellation. However, I'm not persuaded there is sufficient evidence to demonstrate NatWest made an unreasonable decision not to uphold her section 75 claim and complaint on this basis. As I've set out above, it seems Ms M was likely made aware the services were non-refundable and L likely incurred those costs when she cancelled. As it was Ms M's choice to cancel through no fault of L's, I would struggle to conclude that its decision to pass on its costs to Ms M was unreasonable or unfair particularly where that possibility was highlighted to her in the booking terms she agreed to.

While Ms M has referred to the CRA and PTR, I've not seen anything to persuade me that these regulations entitle her to receive a refund or demonstrate a breach of contract by L for which NatWest might be jointly liable for under section 75. I realise this will be very disappointing for Ms M as I do recognise she has paid a significant sum for services she hasn't received. But, as her non-receipt of those services was not because of anything L did or didn't do, and I've not seen any persuasive evidence of a breach of contract by L, I can't reasonably say NatWest acted unfairly when it declined her claim and complaint.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or

reject my decision before 18 April 2025.

Tero Hiltunen
Ombudsman