

## The complaint

Mr S complained about the way Nationwide Building Society (Nationwide) dealt with a claim for a refund for services he'd paid for using his debit card.

## What happened

Mr S called a travel agent I'll call T to book a package holiday for flights and hotel accommodation for his family over the telephone in September 2023. This was to travel in February 2024. He used payment links and made a payment of £300, and then two others for around £6,000 and £2,000 using his debit card for his current account held with Nationwide. The holiday cost around £9,000.

Mr S said when he was arranging the holiday with T, he asked to fly in premium economy and was told it would cost an additional £2,000 which Mr S agreed to and paid as part of the total cost. But after contacting the airline he was told this wasn't an option from the airport he was flying from. Additionally, he said he asked for ground floor accommodation at the hotel but after booking he found out the hotel only had rooms available at a higher level. Mr S said T told him the holiday was refundable, and he kept this in mind during the booking process.

He contacted T and said he wanted a full refund as he wasn't getting what he paid for. T didn't agree to give Mr S a full refund.

Mr S raised a dispute with Nationwide. When Mr S first called Nationwide he said he wanted to stop the pending transactions as he felt that he was scammed. He said he was told conflicting information about the return of the funds by Nationwide.

After some back and forth between Mr S and Nationwide, it raised chargeback claims in October 2023. It raised two transactions under dispute condition "Merchandise/services not received" and the transaction for £300 was raised under the dispute condition "Misrepresentation". Nationwide applied temporary credits for all the amounts to Mr S' account. Mr S said he wasn't told that this could be taken back.

Around the end of November 2023, T emailed Mr S and said that it could arrange alternative hotel accommodation or give Mr S a refund of £4,200 for the cost of the flights. Mr S said he lost trust with T so didn't want to continue with the booking.

T defended the chargebacks. Nationwide didn't take the transactions raised under "Merchandise/services not received" any further through the card scheme and the amounts were debited from Mr S' account around December 2023. The third transaction was taken to the final stage and the card scheme declined the claim and this amount was also debited from Mr S' account around February 2024. Nationwide provided evidence for one of the claims to show it was defended on the basis that the services were available, and the terms and conditions state the booking was non-refundable.

Nationwide initially responded to a complaint around October 2023. It acknowledged it gave Mr S incorrect information about the dispute and paid £75 for the miscommunication around the refund of the transactions. It then investigated a complaint in December 2023 about the chargeback outcomes and paid £200 for the customer service Mr S received through the

course of the claims. It explained that it submitted chargeback claims based on the information provided by Mr S and explained the process is governed by the card scheme and it didn't make an error because the chargeback claims were declined.

Mr S referred his complaint to the Financial Ombudsman. During the investigation at the Financial Ombudsman, T cancelled the holiday booking and offered a refund of £5,200, which Mr S accepted and has been paid. Mr S wants Nationwide to pay the remaining amount he paid for the holiday.

Our investigator reviewed the complaint and upheld it. He didn't think Nationwide dealt with the chargeback claim fairly. He explained he thought the chargebacks were raised using the incorrect dispute conditions. He said there was a significant change needed to the holiday - because the hotel rooms requested by Mr S couldn't be provided - which T took responsibility for, so he thought the chargeback would have been successful if the correct reason code was used. He recommended Nationwide pay the difference between the refund Mr S received directly from T and the remaining amount and refund any charges applied to Mr S' account as a result of it becoming overdrawn.

Mr S accepted the investigator's findings. Nationwide disagreed and explained that even if the correct reason code was used the chargebacks were unlikely to have been successful. This is because Mr S was unable to provide documentary evidence to demonstrate that T didn't provide what had been agreed at the time of booking.

I issued a provisional decision that said:

*I've reviewed and carefully considered the entire file, acknowledging that Mr S has raised several different points of complaint. I've focused my response on what I believe is most relevant to the matter at hand. If I've not addressed a specific point, it's not because I've overlooked it or failed to consider it, but because I don't believe it's necessary to comment on it in order to arrive at what I believe is a fair outcome. The rules of the Financial Ombudsman allow me to take this approach.*

*I can see Mr S feels strongly about this matter and I'm sorry he was unable to travel on the holiday he booked.*

*I understand Mr S wants a full refund for the amount he paid for the holiday as he has stated he was promised premium economy flights and ground floor hotel rooms, and these couldn't be provided. I need to consider the actions of Nationwide as the financial services provider in this complaint. I'm not considering a complaint about T. I've considered if Nationwide has acted fairly and reasonably in the way it handled Mr S' request for getting his money back. Mr S paid using his debit card and authorised the transactions so the only recourse for Nationwide helping him getting his money back was through the chargeback process.*

### **Chargeback**

*In certain circumstances a card issuer can raise a chargeback dispute under the relevant card scheme rules, in this case it's the Visa scheme. This is where the cardholder has a dispute with the merchant, but this is subject to strict rules and there is no guarantee that the card issuer will be able to recover the disputed amount. Issues with the merchant don't always result in a successful chargeback claim. Whilst there is no obligation for the card issuer to raise a chargeback claim, I think it's good practice to do so, where there is prospect of success.*

*Nationwide raised chargeback claims and I think this was fair of it. However, based on the information available I don't think the most appropriate dispute conditions were used in the*

circumstances. I understand these were selected based on the information submitted by Mr S. However, I don't think the condition "Merchandise/services not received" would have been an appropriate reason to use for the chargeback claim as the services were future dated. Additionally, I don't think the dispute condition "Misrepresentation" was appropriate for one of the transactions Mr S paid. Nationwide suggested this condition could be used instead of "Merchandise/services not received". However according to the rules, this dispute condition is only available for specific types of purchases e.g. timeshare resales, outbound telemarketing etc, which Mr S' purchase wasn't, so I don't think this rule was used correctly in the circumstances. I think Nationwide should have reviewed the information to ensure the chargeback claims were raised correctly.

Based on the circumstances I think it's likely the most appropriate dispute condition Nationwide should have raised the claims under was "Not as described or defective merchandise/services". This is because Mr S said he'd discovered the services he was going to receive were not the same as what he'd agreed over the phone with T. However, although this dispute condition should have been used, I'm not persuaded the chargebacks would have been successful. I'll explain why.

The investigator said if Nationwide used the most appropriate dispute condition which is likely to have been "Not as described or defective merchandise/services" the chargeback would have been successful. He explained the consumer rights available under the Package Travel and Linked Travel Arrangements Regulations 2018 (PTRs) because Mr S booked a package holiday. He concluded if the correct dispute condition was used, Mr S could have provided the record which showed T taking responsibility for Mr S not being provided hotel rooms on the ground floor after making a request for these to any defence. The investigator referred to the PTRs to highlight the responsibilities of T under the contract it had for the holiday booking.

I'm afraid while the PTRs may be applicable to the circumstances, I don't think they would have been reviewed as part of the chargeback claims Nationwide raised. I say this because disputes are reviewed under the card scheme rules, rather than specific laws or regulations outside of those rules. So, I can't say that the claim would have been successful on this basis.

I've considered if Nationwide could have handled things differently to provide Mr S the best chance of raising a successful chargeback claim under the dispute condition "Not as described or defective merchandise/services".

Mr S needed to provide evidence such as a booking confirmation, to show that he was told he would be getting premium economy flights and hotel rooms on the ground floor which demonstrated that the services were defective or not as described. I can see Mr S provided information and emails to show the flight information and the hotel booking he was sent by T when the chargeback was raised. However, the information T provided in writing to Mr S about his prospective booking, prior to him making his card payments, didn't confirm that ground floor rooms or premium economy flights had been agreed. There was also an email where the hotel states that it only has rooms from the 23<sup>rd</sup> floor. I've considered T's response to Mr S following this and although it admitted a request for ground floor rooms hadn't been honoured by the hotel, it didn't make any admissions (that I could see) that there was anything wrong with the booked flights.

For Nationwide to submit a chargeback claim under the card scheme rules, the cardholder must first attempt to resolve the issue directly with the merchant before requesting a chargeback. In this case, T made several offers to resolve the matter, including offering to accommodate Mr S and his party in ground floor rooms and providing a total refund of £5,200. There wasn't sufficient evidence to show that Mr S booked premium economy flights

*(and, by extension, that the entire booking was incorrect), it is likely Visa would have considered T's offers reasonable resolutions for the hotel rooms. It follows that, had Nationwide tried to dispute the transactions further, it's unlikely they'd have been successful.*

*I also considered whether there were any other dispute conditions Nationwide could have used that might have led to a different outcome. One scenario involves cases where a refund was promised but not issued. In these circumstances I can't see that T promised a full refund to Mr S so I think it's likely this would have been defended. And it appears T offered a total of £5,200 which it has now paid and has been accepted by Mr S. which again I think would have been used as a reason to defend the chargeback.*

*I've also considered if Nationwide could have raised a chargeback under dispute conditions where a service was cancelled, and a refund was due under the terms and conditions but was refused by T. I've considered the information available, and I can see from the invoice T provided as part of its defence to Nationwide where it states:*

*"Your tickets have been reserved at a promotional fare. It is important to note that this fare is completely non-refundable in the event of any cancellation. The paid deposit will not be refunded". It also says: "Also, once booked, your flight transactions become non-refundable & non-changeable."*

*Additionally, I've noted T referred to the booking conditions it says it sent to Mr S with the invoice. I've referred to the current booking conditions on the website, which I think is likely to have been in place at the time of the booking: These say:*

#### *"When You Cancel Your Booking*

*You may cancel your travel arrangements at any time, however please note that certain travel arrangements may be non-refundable. [...]*

*Unless otherwise indicated, the following cancellation fees apply to bookings for your Journeys only. Days before departure within which written notice is received by us*

#### *Cancellation fee (% of total Journey)*

- *More than 70 days Deposit only*
- *57-70 days Deposit + 45% of total Journey*
- *37-56 days Deposit + 50% of total Journey*
- *28-36 days Deposit + 65% of total Journey*
- *15-27 days Deposit + 90% of total Journey*
- *14 days or less Full booking value"*

*I've carefully thought about whether there was a chance Nationwide would have been able to raise a successful chargeback under dispute conditions cancelled services. I think this would have a limited prospect of success. I say this because it appears the flights were non-refundable. So, I think at best, the claim could only have been made for the refund of hotel costs, minus the deposit as the cancellation fee, as Mr S wanted to cancel more than 70 days before the departure. However. I can't see there is a clear breakdown of costs associated for flights and the hotel rooms from the evidence provided and there is no breakdown of a deposit being paid. So as part of the chargeback process, I think it would have been difficult to quantify the refund that Mr S was seeking. I've considered what the costs of flight may have been for that size party, for around similar dates that Mr S booked for and it appears the refund T gave Mr S is likely to be around the same as what he would have paid for the hotel rooms. On balance I think if Nationwide did use this dispute condition to raise the chargeback claim it's likely it would also have been defended on the basis that Mr S was paid an amount similar to what he may have been able to claim for. Moreover, I'm*

*conscious that this isn't the claim how it was clearly presented to Nationwide. So, it's really difficult to safely conclude it would have played out in this way. So, I don't think that Nationwide would have been able to raise a successful chargeback claim under this condition for the full refund.*

*Because of the above I don't think it would be fair to ask Nationwide to pay Mr S the remaining amount he's seeking or remove any associated fees. That's not to say things didn't go wrong with Mr S' booking, rather it's difficult for me to say that Nationwide should be held liable because the chargebacks are likely to have been declined on evidential challenges and the offers made by T to resolve the dispute.*

*I've also thought about the customer service Mr S received when he asked Nationwide for help in getting his money back. I've heard in the calls Mr S had with Nationwide he was given unclear information about the way Nationwide could help. In certain calls Mr S was given the impression that the refunds he received meant he was going to get a full refund permanently, and Nationwide would pursue this separately. It also appears Mr S was promised call backs, but these weren't made. I don't think Nationwide was clear in the way the chargeback process worked and I can see why this would have caused Mr S confusion and worry. Although, I agree Nationwide gave Mr S reassurance he would be getting the full amount back and it didn't clearly explain the chargeback process in some of his telephone conversations, I don't think it's fair to ask Nationwide to give him a refund because of this. As Mr S authorised the transactions, the only way Nationwide could help is through the chargeback process and I've explained why I don't think this had prospect of success above.*

*I've therefore considered the total amount of compensation Nationwide has paid to Mr S. It's clear Nationwide could have had better communication with Mr S and it seems to accept that it did make errors in the processing of the chargeback. I think it acknowledged this in the final response letters it sent to Mr S and paid him a total of £275. There's no exact science when awarding compensation, but based on the circumstances of this complaint, I agree the total compensation of £275 fairly reflects the trouble and upset caused to Mr S. I make no further award.*

Mr S responded to say that he disagreed and reiterated that he provided evidence that the hotel rooms weren't booked on the ground floor as requested. He said that T acknowledged this and T also didn't provide him with the flights he wanted for premium economy. Mr S also responded to say that Nationwide didn't help him when he asked for the transaction to be stopped.

Nationwide responded to accept the provisional 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.

Thank you to both parties for their responses. I have reviewed Mr S' responses by email and telephone calls to our service and I understand he is disappointed. But as I explained in my provisional decision I don't think the chargeback had reasonable prospect of success, even if Nationwide used the correct chargeback code. I've not been provided any further evidence to breakdown the hotel accommodation and flights that Mr S says were agreed to. Seeing as though I've not been provided anything materially new to consider, I see no reason to depart from the conclusions I reached in my provisional decision.

**My final decision**

I don't uphold this complaint. I don't think it's fair to ask Nationwide to pay Mr S the difference between the refund he received from T and the total amount he paid for his holiday. I think the total amount of compensation is fair for the issues Mr S experienced during the course of the chargeback claim.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 18 March 2025.

Amina Rashid  
**Ombudsman**