

## **The complaint**

Mr H is unhappy with how Nationwide Building Society (“Nationwide”) dealt with his claim for a refund on a hotel which he felt was not as described.

## **What happened**

In June 2023 Mr H booked a holiday for himself and his family, through a travel company using his Nationwide credit card. The holiday took place from 26 March 2024 to 1 April 2024. The package included flights, airport parking, transfers, travel insurance and accommodation at a hotel, on a room only basis. The total cost of the package holiday was £3,430.63, with the hotel accounting for £1,104.63 of that amount.

Mr H said that when he arrived at the hotel, the room was not as described. Specifically, he claimed the shower was not working properly, wallpaper was peeling, the room was unclean, and the bed sheets and pillows had stains. He also noted that the hotel was noisy.

Mr H said he raised his concerns at the hotel reception, and although the bed sheets and pillows were changed for one day, they returned to being dirty, the following days. He then sent a message via the hotel’s website but received no response. Mr H went on to try and call the travel company but was unable to get through, so he emailed and raised a complaint.

Mr H received a response from the travel company on 31 March 2024 advising him to raise his concerns with the hotel reception directly. If the hotel was unable to resolve his issues, he was instructed to email the travel company again listing the issues and providing any supporting evidence.

Mr H and his family stayed for the duration of the holiday, and when they returned, Mr H contacted the travel company again. The travel company said it had received a response from the hotel. While the hotel claimed it hadn’t received a formal complaint from Mr H, it stated all deficiencies had been corrected. Due to the inconvenience, the hotel refunded the service fee that Mr H had paid separately upon arrival at the hotel.

As Mr H was unable to resolve his concerns with the travel company, he contacted Nationwide to request a refund for the total cost of the hotel.

Nationwide tried to raise a chargeback but concluded that the case didn’t meet the criteria, under the chargeback rules, as the hotel booking hadn’t been cancelled, and Mr H had stayed at the hotel for the full duration of his holiday.

Nationwide also looked at a Section 75 claim and offered to pay Mr H £343.63, representing a 10% refund of the total holiday cost. This amount also equated to around 31% of the hotel price alone. Unhappy with this Mr H complained and subsequently referred his complaint to our service.

It was considered by one of our investigators who concluded that Nationwide was correct not to take the chargeback further. The investigator said as Mr H received the hotel

accommodation and stayed at the hotel there was no reasonable prospect of success if the chargeback had been taken further.

The investigator also considered the offer Nationwide made under Section 75 and felt the price reduction offered was fair given the circumstances.

Unhappy with the investigator's opinion, the complaint has been passed to me to consider.

### **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.

There were two ways Nationwide could've tried to recover the funds paid by Mr H. This was by raising a chargeback or through Section 75 of the Consumer Credit Act 1974. I'll address each in turn.

### **Chargeback**

Chargeback is a process by which disputes are resolved between the card issuer and merchant, under the relevant card scheme. There is no right for a consumer to require that a chargeback claim be made. But if the right to make a chargeback claim exists under the applicable scheme rules – and if there is a reasonable prospect of success – I consider it to be good practice for a chargeback claim to be made.

Nationwide considered the dispute under the chargeback scheme but said there wasn't a valid chargeback code as Mr H received the accommodation and stayed at the hotel for the full duration of the holiday. Having reviewed everything, I am satisfied it acted fairly because even if I thought Nationwide should've taken the chargeback further, I don't consider there'd have been a reasonable prospect of success for the same reasons it already provided.

### **Section 75**

Under Section 75, Nationwide in certain circumstances can be held jointly liable for a breach of contract or misrepresentation made by the supplier of goods or services. Relevant to this determination are the Package Travel and Linked Travel Arrangements regulations 2018 ("PTR") and the Consumer Rights Act 2015 ("the CRA").

Briefly, the PTR implied terms in Mr H's contract with the travel company making it liable to Mr H for the performance of the travel services included in his package contract. The CRA implied a term that services, including the provision of the hotel accommodation, would be provided with reasonable care and skill. A breach of this term could ultimately give Mr H the right to ask for an appropriate price reduction.

Based on everything Mr H has said and provided, I think the argument he is making here is that there was a breach of contract. I appreciate Mr H has said he feels the hotel was misrepresented to him. However, I think the evidence he's provided - such as the photos of the hotel room and the issues he described - demonstrates poor quality rather than a misrepresentation.

In terms of a breach of contract, it's unclear whether Nationwide accepted there was a breach of contract when it offered Mr H a partial refund under his Section 75 claim. Having reviewed all the evidence and photographs Mr H provided, whilst I appreciate that something has gone wrong here and there were some shortcomings in the accommodation, I don't have enough evidence to determine a breach of contract occurred.

I'm mindful the purpose of my decision is to provide a fair outcome quickly with minimal formality. And so, even if I agreed that there was a breach of contract, I think what Nationwide has already offered is fair. While I understand Mr H has asked for a full refund for the hotel, I'm not persuaded he has provided sufficient evidence to show it would be fair for him to receive any more than what Nationwide has already offered.

Aside from the hotel, the rest of the holiday package appears to have been used without any issues. Mr H and his family also stayed at the hotel for the duration of their holiday, and whilst I appreciate his comments that cancelling the hotel would've posed difficulties – especially as he was travelling with his family, ultimately the accommodation was used throughout the stay, and he didn't curtail or cancel his hotel booking.

Taking everything into consideration, I find Nationwide's offer was fair in the circumstances. It represents 10% of the total holiday cost, and when viewed in proportion to the cost of the hotel accommodation alone, it equates to around 31%, which I consider reasonable. I consider it fairly reflects that Mr H experienced some issues with the hotel but was still able to remain there for the duration of his holiday and make use of the accommodation.

I appreciate this will be disappointing to Mr H as he was seeking a full refund of the hotel cost, but I think Nationwide handled the claim fairly.

### **My final decision**

Nationwide Building Society has already made an offer to pay £343.63 to settle the complaint and I think this offer is fair in all the circumstances.

So, my decision is that Nationwide Building Society should pay £343.63 if it hasn't done so already.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 6 June 2025.

Farhana Akhtar  
**Ombudsman**