

The complaint

Mr D has complained about the way American Express Service Europe Limited (“AmEx”) dealt with a claim for money back in relation to a hotel he paid for with credit it provided.

What happened

In January 2025, Mr D used his AmEx credit card to pay for a hotel through an agent I’ll refer to as H. In total he paid £2,506.04 and booked to stay between 25 January 2025 to 29 January 2025.

Mr D says he booked the hotel due to the promise of mountain views, based on the images on the website which included a pool. On arrival, Mr D says they were not given the room they had booked, took pictures of the views and noted that the room was next to staff facilities/restaurant, so it was noisy. He also said there was a rubbish dump in front of the room. He says he complained straightaway and was told he’d be given a different room the following day but the view from that room wasn’t any better. He said he only had access to the spa pool but that was full when he visited it, and the other pool in the pictures was only available for certain guests.

Mr D subsequently left the hotel and booked and stayed at a different hotel, which he says actually provided what it offered. He subsequently contacted H for a refund. H tried to get the first hotel to offer him a refund, but the booking had been made on a non-refundable basis, so H was unable to obtain a refund for Mr D. But it did offer him £50 towards future bookings.

Unable to resolve matters directly with H, Mr D contacted AmEx. He felt the hotel was not described accurately and the images on H’s website was misleading. AmEx raised a chargeback based on what Mr D had said but H defended it on the grounds that he’d been given a room in the category he booked (premier) and he’d also been offered an alternative the next day. The room had also been booked on a non-refundable basis. AmEx decided not to progress the chargeback claim any further. AmEx also considered a claim under section 75 of the Consumer Credit Act 1974 (s.75) but said that H wasn’t responsible for the failings of the hotel supplier under s.75, so it didn’t uphold this claim either.

Mr D decided to refer his complaint to the Financial Ombudsman. He re-iterated that the hotel had been inaccurately described, and he felt a full refund was due. AmEx had at this point issued a final response regarding the chargeback claim but says it hadn’t yet received a complaint about its decision to decline Mr D’s s.75 claim. Mr D says he was unhappy with AmEx’s response to both claims.

Our investigator looked into things and felt the way AmEx dealt with Mr D’s chargeback request was fair. It did raise a chargeback, but this was defended and based on the defence, she didn’t think AmEx was wrong not to progress the chargeback any further. She said that while AmEx hadn’t yet considered a complaint about its decision to decline Mr D’s s.75 claim, she didn’t think his claim should’ve been upheld in any event. So, she didn’t make any recommendations to AmEx.

Mr D didn't agree. He felt that the hotels no refund policy was unfair under the law. That his claim fell within the financial limits required to make a s.75 claim, and that he'd found a decision issued by an ombudsman on what he thought was a similar case where a partial refund for a chargeback had been successful, and a s.75 claim was considered against an intermediary.

Our investigator agreed that Mr D's claim did fall within the financial limits required to make a claim, but didn't think that Mr D's assertion that the hotels no refund policy was unfair had any merit. She further explained that each case at the ombudsman service is decided on the individual merits of that case. So, her view remained unchanged.

As things weren't resolved. the complaint was passed to me to decide.

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.

Firstly, I'd like to reassure Mr D, that I have considered all his concerns carefully, but I will only be dealing with the most salient parts of the complaint in this decision as I'm required to decide matters quickly and with minimum formality.

Chargeback

Firstly, it may be helpful to explain that each credit card provider acts under specific chargeback rules that may be different with other credit scheme providers. Chargeback is designed to be a simple process to settle complaints. The only matters to be considered are the rules set by the card scheme to which the consumer's card belongs, along with the facts of the case. It is not designed to settle complex disputes or to consider legal arguments. The rules are very specific and detailed and usually there's little room for discretion – and they are simply applied to a case as they are.

I understand AmEx did raise a chargeback, but this was successfully defended by H as it confirmed that Mr D had stayed in the hotel and left of his own accord, that he'd been offered a premier room which is what he booked and paid for and had been offered an alternative room the following day. The merchant also explained that the booking had been made on a non-refundable basis.

The rules allow AmEx to request refunds from the merchants (whether full or partial) on very specific grounds such as services having been cancelled or refused by the merchant (neither of which happened here). Other grounds include where a refund hasn't been processed in line with the merchant's refund policy. But as explained above, Mr D wasn't contractually entitled to a refund as he'd made the booking on a non-refundable basis.

I appreciate Mr D feels the non-refundable nature of the booking is unfair. But the chargeback scheme isn't designed to consider these sorts of arguments. It allows AmEx to request refunds on a very narrow set of circumstances – and AmEx did do so. But on receipt of the merchant's defence, it chose not to progress the claim any further and based on what I've seen I don't think that was unreasonable.

It's important to note that chargebacks are decided based on the card scheme's rules – in this case AmEx runs its own scheme. But importantly, chargeback claims are not decided on the relative merits of the cardholder/merchant dispute or whether or not the chargeback rules are fair. AmEx's role as a credit card provider is to raise the appropriate chargeback and

consider whether any filed defence by the merchant complies with the relevant chargeback rules.

And in this case, given that H explained that Mr D was given a room in the category that he booked, and he booked on a non-refundable basis, I don't think it was unfair for it not to progress the matter any further. It wasn't the case for example that the merchant's defence was noticeably poor or lacking in credibility. And most banks won't take a chargeback any further if it's defended.

There may be cases where merchants like H, do not defend the chargeback and consumers are able to keep the amounts credited, but I'm afraid, in this case H did do so. And based on the defence submitted (under the AmEx scheme rules), I don't think the stance AmEx took was unfair.

Section 75 claim

Once AmEx decided that the chargeback claim didn't succeed under its card scheme rules, it went on to consider a s.75 claim but it declined this. I appreciate AmEx hasn't then gone on to consider a complaint about its declination, but I don't think AmEx's response to Mr D's claim was in any event unfair, so I've gone on to consider its response to Mr D's s.75 claim.

Initially, I would explain that I understand how disappointed Mr D must feel given he's paid significant sums for a holiday experience and believe his enjoyment would have been affected by the problems he experienced. But it may be helpful to explain that I need to consider whether AmEx – as a provider of financial services – should do any more in response to his claim under s.75. But it's important to note AmEx isn't the supplier. S.75 is a statutory protection that enables Mr D to make a 'like claim' against AmEx for breach of contract or misrepresentation by a supplier when goods or services were bought using a credit card. But it's important to note that AmEx isn't H and isn't responsible for everything that might've gone wrong with H. And more importantly, AmEx is not responsible for anything that might have gone wrong with any other contracting parties.

There are certain conditions that need to be met for s.75 to apply. From what I've seen, I think those conditions have been met but I think AmEx is only responsible for responding to part of Mr D's claim and I'll explain why.

In order to raise a claim under s.75, Mr D (the debtor) must have used his credit card with AmEx (the creditor) to pay H (the supplier). S.75 does not extend protection to contracts that consumers might have with any other parties.

H's travel agent terms specify that it is responsible for booking the hotel- but the delivery of the service is done by the travel suppliers (i.e. the hotel owners) directly. My understanding is that there is no such "like claim" against AmEx for any problems Mr D might have had with the hotel owners on the delivery of that service. That is not to say that Mr D doesn't have a claim against the hotel owners, or that things haven't gone wrong, but it does mean, in my view, that AmEx isn't responsible for responding to those claims.

So while I think there is a debtor – creditor – supplier agreement between Mr D, AmEx and H – under a s.75 claim, Mr D can only bring claims against AmEx for the breach of contract or misrepresentation of H, and not the failings of the hotel who delivered the service.

Based on what Mr D has said, his claims rests on two main areas of dissatisfaction. One that the hotel wasn't as described; he didn't feel the views from the hotel room was accurately described as he expected mountain views and he says that's not what he was given. He also felt the pictures of the hotel didn't match up to what was actually provided. Secondly, he felt the service offered was not carried out with reasonable care and skill such as Mr D was not notified that he only had access to the shared pool, the room was noisy with rubbish left nearby.

As this booking wasn't made alongside any other bookings through H, it is not a packaged holiday so the rules in relation to packaged holidays aren't applicable to this complaint. H is therefore only responsible for the offer it made which was to facilitate the booking of the hotel for Mr D which it seems to have done, so I don't think there has been a breach of contract on the part of H in terms of arranging for the booking of the hotel.

H's terms make it clear that the delivery of the service is done by travel suppliers (i.e. the hotels) and it's not responsible for any failings associated with the delivery of the service. H's terms also make it clear that it relies on the travel suppliers (i.e. hotels) to provide information about the services offered including describing the services, the rates and providing photos and it is the travel suppliers responsibility to make sure that the information is accurate. It goes on to confirm it is not liable for any inaccuracies carried out by suppliers.

So based on the terms that Mr D agreed to when he made the booking, the delivery of the service and the photos and descriptions were the responsibility of the hotel owners. H (and consequently AmEx) is not responsible for responding to any breach of contract claims Mr D may have against the hotel owners directly. So, his concerns over the views from the room, the pool being full, or the noise levels and rubbish in front of the rooms, need to be addressed towards the hotel. It is not something H is contractually responsible for and therefore not something AmEx is responsible for assisting with under a s.75 claim.

I appreciate that Mr D paid H and likely feels it should be H (and consequently AmEx) who responds to his concerns. But as explained above, s.75 is limited in the protection it offers, and AmEx's liability only extends as far as H's contractual obligations, and any misrepresentations H is responsible for. The protection doesn't extend to contracts that consumers might form with other parties when making bookings.

I would like to stress that I am not saying things haven't gone wrong or that I disbelieve Mr D. I sympathise with his position. But under a s.75 claim against AmEx, I cannot assess the failings of the original hotel as AmEx isn't responsible for answering any claims Mr D might have against the hotel. It's only responsible for answering a claim for the failings that H is responsible for. But Mr D's dissatisfaction stems from the alleged failings of the original hotel.

Having considered this case in detail, I am not satisfied that Amex's response to Mr D's s.75 claim was unfair. I also don't think the way it dealt with his chargeback claim was unreasonable. So, for the reasons explained, I do not uphold this complaint.

I should, however, point out that Mr D doesn't have to accept this decision. He's also free to pursue the complaint by more formal means such as through the courts.

My final decision

For the reasons I've explained, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 16 October 2025.

Asma Begum
Ombudsman