

## **The complaint**

Mrs M has complained about how NewDay Ltd (NewDay) handled a refund claim she made.

## **What happened**

As all parties are familiar with the circumstances of this complaint, I'll be setting these out, as necessary, alongside my findings below.

## **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.

I've read and considered the evidence submitted by the parties but won't comment on it all – only the matters I consider to be central to this complaint. This isn't intended as a discourtesy but reflects my role in resolving disputes informally.

It's important to note that NewDay aren't the provider of the services here – so in deciding what is fair and reasonable, I'm looking at their particular role as a provider of financial services. In doing so I note that because Mrs M paid for this transaction using a NewDay credit card, a S75 claim could possibly help her. So in deciding what is fair and reasonable I've focussed on this.

To assess a valid claim, NewDay would've needed to consider all relevant evidence for the alleged breach of contract or misrepresentation. But for there to be a valid claim under S75 there are certain technical requirements and I'm satisfied they've been met here.

Mrs M's complaint is about her package holiday paid on her credit card in February 2024, for two adults and two children through a supplier I shall call 'S', to the sum of £7,443.44. However there are two main issues for which Mrs M believes she is due redress for a breach of contract under S75:

1/ Mrs M says she was assured that two separate beds would be provided for the children, however she discovered upon arrival that only one bed was available for them to share. Mrs M has said this was unfair considering the prior assurances given.

I've reviewed the evidence available and while I appreciate Mrs M's testimony regarding what she was promised, I can't see any documentary evidence of this. S has said they made Mrs M aware on 23 February 2024 that the additional bed wasn't guaranteed and a request had been sent to the resort asking for three beds in total. S said that even though there wasn't a guarantee, Mrs M chose to proceed with the booking.

I have also reviewed the correspondence between S and the hotel and am satisfied the request was made. However, the hotel did reply stating the note had been added to the reservation but it couldn't be guaranteed as it would depend on availability.

With all of this in mind, I can't say there has been a breach of contract here for the non-provision of the additional bed as I've insufficient evidence that this was guaranteed to Mrs M. Therefore I won't be asking NewDay to do more on this complaint point.

2/ Mrs M received a message on 5 June 2024 from S that their internal rating for the booked hotel had been decreased (as they review their hotels on a regular basis to make sure they align with these standards). Mrs M also considered this a breach of contract as the hotel was no longer of the standard she expected at the time of booking.

Our investigator agreed this was a breach of contract as the hotel provided was no longer of the rating advertised at the time of sale. They considered that a refund of £125 per person booked would be fair, to a total sum of £500.

NewDay didn't agree and said that as the hotel facilities and amenities had remained the same, they didn't think it fair that a refund would be due based purely on a change in the hotel rating.

I can see from Mrs M's booking confirmation that the hotel is shown to be five star and so there isn't a dispute that she did contract to stay in accommodation of this rating. While I appreciate NewDay's position, there has been a breach of contract regardless because a five star hotel was simply not provided as required. And it is likely that if Mrs M knew that this hotel hadn't maintained these standards, she wouldn't have booked it.

I also note from S's terms and conditions that they consider a downgrade of accommodation by one star (as has happened here) as a 'major change' and so this was a breach of contract. And as Mrs M was notified of this a few weeks before travel, it wouldn't have been reasonably possible to rebook similar accommodation at a comparable price.

However, I also note S did confirm all the advertised facilities at this hotel remained the same and so I do consider the refund amount here should reflect this. I agree with our investigator that £125 per person does seem appropriate and so a refund of £500 would be fair to address this breach of contract under S75.

### **My final decision**

My final decision is I uphold this complaint. Newday Ltd must:

- Pay £500 to Mrs M to resolve the breach of contract under her S75 claim.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 13 January 2026.

Viral Patel  
**Ombudsman**