

The complaint

Miss E is unhappy MBNA Limited hasn't refunded her following problems on a hotel stay she paid for with her credit card.

What happened

In June 2025 Miss E paid for a stay in a hotel in Turkey using her MBNA credit card. The stay cost around £1,400 and Miss E stayed with her boyfriend, Mr J. The booking was made via Mr J's account on a third-party website, and the reservation was in Mr J's name.

Miss E says the hotel breached the contract as it didn't provide the services with reasonable care and skill. Her key concerns were:

- She asked to be upgraded to a sea view room on arrival but wasn't happy with the conditions of the available rooms, so ended up staying in the booked room for the duration of the stay.
- Items in the room smelt of smoke, when Miss E had requested a non-smoking room.
- The room wasn't clean, the hotel provided dirty and stained towels and didn't refill the toiletries.
- The hotel didn't remove food from the room, so it rotted and attracted flies.
- The marble step in the bathroom was chipped.
- The restaurant was too cold, didn't have key ingredients and condiments were expired.
- The hotel made multiple customer service promises that were broken. It promised a 50% refund at the end of the stay but then revoked the offer.

Overall, Miss E said the hotel didn't meet the standards for a five-star rating and so she asked MBNA for a refund.

MBNA reviewed the claim under Section 75 of the Consumer Credit Act 1974 (S75 CCA). It said the hotel had provided the tier of room on the booking and as it wasn't guaranteed the hotel could upgrade her on arrival this wasn't a breach of contract.

MBNA said the hotel had responded to the claim saying it had offered a number of customer service extras to make up for things during the stay. It said the restaurant services weren't part of the booking so it didn't think this was something Miss E could claim a refund for. Finally, it said there wasn't evidence to show the hotel had agreed to refund 50% as the emails Miss E provided had shown the hotel revoked the offer on review.

MBNA also considered if Miss E could raise a chargeback but said as she had stayed at the hotel for the full duration of the booking this wouldn't be successful. Miss E was unhappy with the response so brought a complaint to our service.

Our Investigator didn't think MBNA had unfairly rejected the S75 CCA claim. She said that while Miss E had provided supporting photos and videos, she didn't think the problems with the hotel were enough to mean there was a breach of contract. She said the hotel offered non-smoking rooms on request but the terms of the booking said it couldn't guarantee this. Overall she thought MBNA had considered the evidence fairly and agreed it wasn't likely a chargeback would have been successful either.

Miss E provided further photos and videos in response to the view, including photos of expired condiment bottles in the restaurant and stains on towels. She said the hotel had also evacuated one night due to a customer setting off the fire alarm, and as announcements were made in Turkish, she said other customers were left upset and not knowing what was happening. The Investigator didn't change her mind so Miss E asked for an Ombudsman to make a final decision.

I informally wrote to the parties to explain I thought the Investigator's findings were likely in line with my own. I also explained I had concerns about whether the transaction met the criteria for Miss E to raise a S75 CCA claim – because the hotel had been booked in Mr J's name. As Mr J had made the booking via a third-party website, I explained this could also affect the relationship for the claim. So, even if there was enough evidence for the claim to be successful, it might affect the amount Miss E could claim in losses.

Miss E responded to my message asking me to reconsider her evidence, as she thought it showed serious failings by the hotel to provide accommodation of reasonable quality and hygiene. She said the hotel was marketed as five stars and this didn't meet the standards expected. She added the hotel had admitted failings and offered a 50% refund which it hadn't paid. Miss E also said the hotel stay was for both her and Mr J, so she paid for and received the services from the hotel.

As Miss E requested I review my preliminary thoughts, I've now made a final decision on the complaint.

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.

Having done so, I agree with the outcome reached by the Investigator – and I'll explain why.

Miss E has made several detailed points in her complaint. I've considered everything she's said and all the information on the file. But in my decision, I do not intend to refer to everything or address every point made. I mean no discourtesy by this, instead I will focus on what I see as being the key outstanding points following the Investigator's outcome, and the reasons for making my decision.

MBNA is a different business to the online supplier, so I can't hold it responsible for everything that may have gone wrong. Instead, S75 CCA allows a borrower under a credit agreement to make a like claim against the credit provider if there's either a breach of contract or misrepresentation by the supplier of the goods or services.

The Consumer Rights Act 2015 implies terms into the contract to supply services that "the trader must perform the service with reasonable care and skill" (Section 49). There are also terms expressed in the contract with the hotel. I need to decide how MBNA answered the claim for breach of contract or misrepresentation.

In order for a Section 75 claim to be considered, there needs to be a clear relationship between the debtor, creditor and supplier, known as a D-C-S relationship. If other parties are involved, this can break the chain and mean it isn't possible to request a remedy under Section 75.

I explained to the parties informally that I had concerns there wasn't a valid debtor-creditor-supplier relationship for the S75 CCA claim. This is because the hotel contracted to provide services to Mr J, but the services were paid for on Miss E's credit card with MBNA. There's also the presence of a third-party website, who could have acted as a broker, but also could interfere with the relationship for a claim. As such, it could mean Miss E is limited to only claiming losses for herself, or that she isn't able to claim any losses at all, if the D-C-S relationship between the parties was broken.

However, I don't think I need to consider this in detail in order to make a final decision on this complaint. I say this because I don't think the claim has a reasonable prospect of success in any event.

I'm not disputing Miss E has provided photos and videos of concerns she had with the hotel – it's clear she feels very strongly that it didn't meet her expectations for a five-star hotel. I've carefully reviewed all the files provided by Miss E, and while I think there are signs of wear and tear at the hotel, I don't think these created a breach of the terms of the contract or the description of the hotel on the booking. I've also considered if there's enough evidence for MBNA to have found the hotel didn't provide services with reasonable care and skill, under Section 49. But I don't think the photos and videos are enough to show this either.

Miss E added that the hotel provided a free fruit platter as an apology, but didn't clear it from the room, so it attracted flies. She was also unhappy that toiletries weren't refilled in the room. I'm sorry to hear this happened, but I'm mindful there are several things MBNA doesn't know here. For example, it doesn't know if Miss E and Mr J allowed cleaning in the room daily or requested the room was left alone, or if there were facilities for Miss E to dispose of the food herself. So, I don't think MBNA has unfairly considered this evidence when reviewing Miss E's S75 CCA claim.

The room itself was the same tier as the one on Mr J's booking confirmation, so while I'm sympathetic that Miss E says she was disappointed by the view, the room matched the description on the booking. The booking also shows Mr J requested a non-smoking room, but it states, "*all special requests (such as in-room amenities, bed type and smoking preferences) are shared with the property, but requests are not guaranteed and may incur additional charges*". I understand the reasons why Miss E was unhappy with the smell in the room, but as it was only a request on the booking, and the hotel tried to offer alternatives, I don't think it needed to do more than this.

I also don't think it's unreasonable for MBNA to reject parts of the claim involving the restaurant at the hotel. The booking included a buffet breakfast, and the restaurant formed part of the services available in the hotel. Miss E says the temperature was very cold, key ingredients for vegetarian meals had run out and the expiry dates added to condiment bottles had passed.

But I don't think it's unreasonable for MBNA to decline these parts of the claim as I'm not persuaded these issues meant the hotel provided the restaurant services with unreasonable care or skill. It's also unclear if Miss E raised these concerns with the hotel at the time, to allow it the chance to put things right.

While Miss E argues the issues she recorded mean the hotel didn't meet a five-star standard, it isn't my role to determine what star-rating the hotel should have. I think it would be reasonable for MBNA to expect to see evidence showing the hotel had advertised itself as having a higher rating than it actually has, in order for a claim to be successful here. As MBNA doesn't have supporting evidence to show misrepresentation, I don't think it's unreasonable for it to say the claim is unsuccessful here.

Miss E says the hotel staff agreed to refund 50% at the end of the stay but later refused to honour this remedy. I've looked at the emails she provided and there isn't confirmation from the hotel that the offer would be paid. Instead it says it is reviewing her request, and a manager then rejects it, saying the hotel had already provided multiple gestures to reflect Miss E's unhappiness during the stay. I don't think this demonstrates the hotel agreed to refund Miss E, so I can't fairly expect MBNA to honour the refund Miss E is looking for.

I'm sorry to hear Miss E didn't enjoy her stay because of the issues she found. But, after considering all the available evidence, I don't think MBNA has acted unfairly when it rejected her claim for a refund under S75 CCA. So, I don't think it needs to do anything to put things right for Miss E.

MBNA says it didn't raise a chargeback because Miss E had stayed in the hotel for the entire duration of the booked stay. So, it didn't think there was a reasonable prospect of success. A chargeback is determined by the card scheme rules applicable to the transaction, and these can sometimes be quite narrow. I think it's most likely Miss E wouldn't have had a successful claim for a refund via chargeback in the circumstances, for similar reasons to those I've explained for a S75 CCA claim. So I don't think it was unreasonable for MBNA to not attempt the claim via chargeback.

I would remind Miss E that our involvement, if she chooses not to accept the outcome of this final decision, doesn't prevent Miss E from pursuing other ways of resolving the matter with the merchant. And so this doesn't take away any statutory rights Miss E may have.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss E to accept or reject my decision before 28 April 2026.

Hannah Dunkley
Ombudsman