

## **The complaint**

Mr S complains about how NewDay Ltd trading as Aqua (“Aqua”) handled a claim about a hotel booking made using his credit card.

## **What happened**

In July 2025, Mr S used his Aqua credit card to pay for a hotel booking for a guest and her child. The cost of the booking was £99.

Mr S says the hotel was marketed as a clean and comfortable option with basic hotel amenities. He says though there were several problems with it, as follows:

- There was no-one at reception; instead there was a notice asking them to call a number if they needed help.
- The lift was out of service.
- The internet was down.
- The room could only be locked from the outside, which left his guest vulnerable to potential intruders.
- The carpet was damp and an unpleasant odour permeated the room, making it difficult for them to breathe comfortably.

Mr S tried to call the number given at reception but there was no response. So, he booked another hotel to ensure the comfort of his guest and her child. Mr S contacted Aqua asking for a refund of the £99 he’d paid. Aqua raised a chargeback, but the merchant defended it, and Aqua decided not to take it any further.

Mr S complained to Aqua about how they handled the claim. They didn’t uphold his complaint, and so Mr S referred the matter to our service.

Our investigator didn’t think Aqua needed to do anything to resolve the complaint. He said Aqua had acted reasonably in deciding not to take the chargeback any further after it had been defended. And he said Mr S couldn’t make a claim under Section 75 of the Consumer Credit Act 1974 (“Section 75”) because the necessary debtor-creditor-supplier (“DCS”) relationship wasn’t in place, and because the claim was outside of the required monetary limits. Our investigator also said we couldn’t take Section 56 of the Consumer Credit Act 1974 (“Section 56”) into consideration either because the DCS relationship wasn’t in place.

Mr S didn’t agree with our investigator’s view. So, his complaint has been 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.

I'm sorry to hear about what happened with the hotel booking. However, it's worth noting here that Aqua is not the supplier of the hotel services here, so its liability is limited to the specific card protections that are available. In this case, the relevant protections to consider are chargeback and Section 75. Section 56 is also a relevant consideration if, for example, a Section 75 claim can't be made.

I note that Aqua only considered the chargeback avenue when it dealt with Mr S's claim. I will though consider all appropriate avenues, in turn.

#### *Section 75 doesn't apply here*

Section 75 means Mr S is able to make a 'like claim' against Aqua for breach of contract or misrepresentation (a false statement made prior to the contract being formed which induces a party to enter into a contract they otherwise wouldn't have) by a supplier paid by credit card in respect of an agreement it has with him for the provision of goods and services. However, certain criteria apply to Section 75 for it to apply.

One of the criteria is that there needs to be a valid DCS agreement. However. In this case I don't there is. I will explain why.

In this case the relevant 'supplier' is the booking agent that received the credit card payment (not the hotel). The 'creditor' is Aqua and the 'debtor' is Mr S as he is the primary cardholder who has agreed to repay the credit to Aqua. The issue here is that Mr S doesn't have a contractual agreement with the supplier. Mr S's guest is the name shown on the booking confirmation, which means she was the customer of the supplier and the contracting party – not Mr S.

This means there is no DCS agreement in place for Mr S to have a valid Section 75 claim in relation to the actions of the supplier. Not only that, to make a Section 75 claim, it has to relate to "any single item to which the supplier has attached a cash price not exceeding £100 or more than £30,000". In this case as the individual (single) item, in this case the hotel booking, cost less than £100, section 75 doesn't apply. So, it follows from what I've said above that Aqua isn't equally responsible for any breach of contract or misrepresentation by the supplier.

#### *What about Section 56?*

Section 56 is relevant because it says that any negotiations between the supplier and the debtor in relation to a credit card transaction are deemed to have been conducted by the supplier as an agent of Aqua. So, this would be relevant for any allegations of misrepresentations made by the supplier in respect of the hotel. And there is no monetary limits in place for Section 56, as there is for Section 75.

However, there still needs to be a DCS agreement in place for Section 56 to apply. And I've already concluded there wasn't a DCS agreement in place here. So, Section 56 doesn't apply in relation to Mr S's complaint against Aqua.

#### *Chargeback*

Chargeback isn't a legal right, and the rules are set out by the particular card scheme, in this case Mastercard. There is not a requirement for Aqua to raise a chargeback, but in some circumstances, it would be considered good practice to do so.

Here, Aqua raised a chargeback, but it was defended by the supplier as the hotel was available for Mr S's guest to use and they sent evidence showing the booking wasn't refundable in case it wasn't used. Aqua decided not to take the chargeback further and I think that wasn't an unreasonable position for them to have taken.

I say this because, even if Aqua should have raised a chargeback under a different reason code than whether the room was available to use, as Mr S suggests, there isn't much evidence that it would have been a clear-cut case for success in any event. The allegations Mr S has made about the hotel haven't been presented with any potentially persuasive or compelling evidence, such as photographs or documentary evidence of the issues being raised with the hotel upon arrival.

The description of the hotel on the supplier's website is also relevant to whether the chargeback should have been successful. The website says there is a '*limited-hour front desk*', and free Wi-Fi '*available in some public areas*' (so not in all areas). And while the lift may have been out of service, the supplier's website confirms this. Mr S also didn't send in any supporting evidence that the door could only be locked from the outside, such that it couldn't be secured at all, or that he raised this with the hotel at the time. And although Mr S has referred to negative reviews from people who have stayed at the hotel, that isn't enough to say that the services weren't provided, were defective or weren't as described in his individual case.

Overall, and for the reasons I've given above, I don't find that Aqua handled Mr S's claim for a refund unfairly or unreasonably.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 19 March 2026.

Daniel Picken  
**Ombudsman**