

The complaint

Mr L complains Nationwide Building Society (“NBS”) failed to treat him fairly when he approached it to claim a refund of money he’d paid for accommodation in Spain, and discussed his personal/financial matters with his mother without his permission.

Mr L is represented in his complaint by his mother, who I will call “M”.

What happened

I issued a provisional decision on Mr L’s complaint on 7 July 2023 in which I set out the background, but in summary:

- Mr L booked accommodation at a hostel in a Spanish city for a stay in late March 2022. He used his NBS debit card to pay for the accommodation over two transactions on 9 March 2022.
- Mr L was disappointed with the accommodation for a variety of reasons. He stayed at the hostel for the duration of the stay as there was a lack of available alternatives because the city was busy due to a festival.
- On his return Mr L said he wrote to a local NBS branch explaining what had happened and requesting it help him reclaim the payments for the hostel via the chargeback process. He received no reply and sent a follow-up letter on 17 June 2022.
- The NBS branch received the follow-up letter but said it couldn’t identify Mr L as a customer based on the information in the letter. The branch manager looked up the address on the letter, and saw M (another customer) was registered there. He rang M and she told him that the letter was from Mr L.
- Mr L was unhappy with the branch manager having spoken to M about his financial affairs. He considered this was a breach of data protection/confidentiality and made a complaint. He also reiterated (on 18 July 2022) that he wanted NBS to take forward the chargebacks. NBS told Mr L it was too late for it to attempt any chargebacks, and Mr L complained about this also. Mr L considered if it was too late for NBS to attempt the chargebacks then this was because it had failed to respond to his previous correspondence.

NBS rejected Mr L’s complaint. It said it hadn’t received his initial letter in March 2022, and it hadn’t shared any information it shouldn’t have with M. It agreed it had given some incorrect information about the timescales involved in the chargeback process, but it didn’t think this was material. It offered no further comment on why it had not attempted the chargebacks.

The complaint was then referred to the Financial Ombudsman Service. In my provisional decision I split my findings into sections dealing with the matter of the chargebacks, and the matter of NBS’s communications with Mr L and M. On the question of the chargebacks I made the following findings:

- Mr L's card had been a Visa debit card and any chargebacks would have been subject to the rules of the Visa card scheme.
- The Visa card scheme rules set out the various reasons for which chargebacks could be made, along with the relevant timescales, evidential requirements and limitations which applied to each.
- A couple of different chargeback reasons from the rules had been referred to in the course of the complaint. One of them, "Misrepresentation", wasn't applicable to Mr L's scenario because it was intended to deal with very specific situations involving retailers such as timeshare resellers. The other, "Not as Described/Defective Merchandise/Services", was the most fitting reason under Visa's rules for Mr L's situation.
- Unfortunately for Mr L, the Visa rules¹ contained some limitations or restrictions on chargebacks attempted for this reason. The rules said that any refund was limited to "The unused portion of the cancelled service". Mr L had remained (albeit unhappily) at the hostel for the duration of his booking. He had used all of the service he had paid for and therefore he couldn't claim a refund via the chargeback process. I recognised that Mr L had been unable to find alternative accommodation, but this wasn't something the Visa rules accounted for.

Overall, I found that regardless of any failings on NBS's part, successful chargebacks against the payments for the hostel accommodation could not have succeeded and therefore it wouldn't be fair or reasonable to require NBS to refund the amounts.

I then proceeded to cover the matter of NBS's alleged communication failings, finding:

- NBS, on balance, hadn't received Mr L's initial letter.
- It wasn't possible to verify exactly what had been said on the phone call between the branch manager and M due to no call recording having been provided. The branch manager and M had given different accounts of what exactly had been discussed, but I noted:
 - The evidence suggested M was already aware of the matters discussed over the phone.
 - Mr L later asked for M to be his representative in the same matters and wanted all the relevant information to be shared with her in any event.
 - Any disclosure had been of a limited nature.

While NBS had a duty of confidentiality to Mr L and needed to observe data protection rules, I didn't think it would be fair or reasonable to require it to provide redress in respect of the phone call from the branch manager.

- Looking in the round at the various other communication failings M had referred to on behalf of Mr L, I didn't doubt that Mr L had been annoyed and frustrated by his efforts to engage with NBS over the problems with the hostel stay, but I also didn't think the standard of communication from NBS had fallen below a level which warranted compensation.

¹ A current version of the Visa rules can be found at this address:
<https://www.visa.co.uk/support/consumer/visa-rules.html> [accessed 28 July 2023]

Overall then, I said I was not minded to uphold Mr L's complaint. I asked all parties to let me have any other submissions they wanted me to consider, by 21 July 2023. NBS said it didn't have anything it wanted to add. Neither Mr L nor M on his behalf has replied to the provisional decision.

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.

As neither party to the complaint has put forward any new evidence or arguments for me to consider, I see no reason to depart from the findings I made in my provisional decision as summarised above. It follows that my decision is that Mr L's complaint should not be upheld.

My final decision

For the reasons explained in the summary of my provisional decision detailed above, I do not uphold Mr L's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 25 August 2023.

Will Culley
Ombudsman