

## **The complaint**

Mrs S is unhappy with how Nationwide Building Society ('Nationwide') handled her chargeback claim for her holiday accommodation which she was unable to use due to Covid-19.

## **What happened**

In January 2020 Mrs S booked a holiday, for 3 April 2020. She booked her holiday accommodation through a travel agent who I will refer to as T in this decision. The total cost of her accommodation was £2,198.14 and was paid for using her Nationwide credit card.

On 18 March 2020, T emailed Mrs S and explained that due to Foreign & Commonwealth Office (FCO) guidance not to travel to certain destinations, she would not be able to travel and use her accommodation. It explained that it was liaising with the resort about its current position and would be in touch when it had further information.

On 19 March 2020 T emailed Mrs S to say as it had been unable to establish the resort supplier's position, she should make a travel insurance claim based on the travel restrictions in place. T said it wouldn't be offering a rebooking or refund option and provided a link to its terms. A further letter from T was sent in May 2020 reconfirming its position to Mrs S.

Mrs S contacted her travel insurer who advised her to raise a claim under Section 75 of the Consumer Credit Act 1974, which she did on 6 May 2020 with Nationwide. Nationwide sent an acknowledgement and asked her to fill out a claim form and to send appropriate documentation with it. Mrs S said she forwarded all the emails she'd received from T to Nationwide, including the original letter from T stating she wouldn't be able to use her booked accommodation, nor get a refund or postponement.

In July 2020 Mrs S emailed and called Nationwide for an update. Nationwide informed her it couldn't open her PDF documents, so she sent the documents again. When Nationwide received this, it said it could take six to eight weeks to review her claim.

On 4 August 2020 Nationwide wrote to Mrs S to say that the transaction in question had been placed into dispute on her account, and that she was not expected to repay this, nor would she incur any interest charges, on the disputed amounts whilst it was investigating. Nationwide also asked her to provide additional documentation to fully assess her claim.

On 6 August 2020 Mrs S raised a complaint with Nationwide about the delays. She said she was being asked to provide further information which she'd already provided three times. Mrs S also sent a copy of T's most recent letter, dated 11 August 2020, reconfirming she was unable to travel to her accommodation and no refund or rebooking option was available.

On 19 August 2020 Nationwide sent Mrs S two letters. The first letter was a final response letter not upholding her complaint explaining Mrs S hadn't provided suitable evidence prior to 11 August 2020. The second letter was Nationwide requesting further information to show the merchant had cancelled the booking, as the invoice provided only stated Mrs S was unable to travel. Nationwide also said as one payment went directly to the booked

accommodation, it wanted any evidence to show Mrs S had attempted to resolve the matter directly with it.

On 13 September 2020 Mrs S emailed Nationwide. She was unhappy at being asked to provide additional evidence which she'd already provided numerous times and she clarified again what had already been sent in.

On 5 October 2020 Nationwide wrote to Mrs S to say from the information provided, there was no basis for it to raise a claim against the merchant, as the service was still offered, even if she'd been advised not to travel by the FCO.

On 15 October 2020 Mrs S called Nationwide and said she received no response to her complaint. The final response letter was re-sent to Mrs S and she continued to contact Nationwide throughout October 2020 about her complaint and claim.

On 17 November 2020 Mrs S wrote to the CEO of Nationwide and in summary explained how she'd experienced poor service and lack of communication since raising her dispute. She said she was aware that she should continue making payments, but since stopping this, she believed she had been kept updated on both her claim and complaint regularly by Nationwide. She apologised for withholding the monthly payments and said she would settle her credit amount in full, minus the £2,198.14 which she still felt was owed to her by Nationwide. She went on to clear the balance minus the disputed amount on 4 December 2020.

In January 2021 Mrs S contacted Nationwide for an update. In February 2021 Mrs S contacted the hotel directly, who provided confirmation that it was closed during the dates of her stay, and the country she was due to visit also had its own lockdown in place during this time. Following receipt of this, Nationwide said it raised a chargeback on 17 February 2021 and provided Mrs S with a full refund.

Mrs S remained unhappy with how Nationwide had dealt with her chargeback claim. She also became aware of late payment markers being recorded on her credit file by Nationwide and wanted our service to consider these issues.

When an investigator at our service reviewed Mrs S' case, she said from looking at the chargeback rules and guidance from Visa, she thought Nationwide should've raised the chargeback earlier than it did. For the overall poor service and how it handled Mrs S' chargeback claim, the investigator thought Nationwide should pay her £150.

In terms of the recording of adverse credit file information, although Mrs S said she was told the whole amount on her credit card was frozen and she didn't need to make payments, as the outstanding balance also included other spending not connected to the disputed amount, the investigator said Mrs S still had an obligation to meet her contractual monthly repayments. As Mrs S didn't do this, the investigator thought Nationwide acted reasonably in registering the arrears information for October and November 2020.

However, for the adverse late fee marker placed for January 2021, the investigator thought Nationwide should remove this, as Mrs S had cleared the amount for the additional spending by that time, and in December 2020 she was also told that the remaining disputed amount was frozen.

Nationwide maintained that it couldn't have raised the chargeback earlier, as it was still waiting for evidence to show there was a cancellation made by the supplier, and once it received this, it raised the chargeback. However, it did go on to accept the investigator's recommendations and agreed to pay £150 to Mrs S. In terms of Mrs S' credit file, Nationwide

maintained the adverse information should stay for the months of October and November 2020, but it agreed to remove the information recorded for the month of January 2021.

Mrs S disagreed with the investigator's view and in summary explained:

- If Nationwide had raised the chargeback earlier, dealt with her submissions properly, and met its own timeframes, the chargeback would've been successful, and the dispute over the adverse entries on her credit file wouldn't have occurred.
- She didn't agree with receiving an adverse marker for the months of October and November 2020, as Nationwide had reported three and four months of missed payments, which was incorrect as those months covered the period in which her account was in query and the account was frozen. Mrs S also said Nationwide should've produced late payment letters for these months, but it didn't.
- She would accept one month of missed payment, showing in her credit file, as per her email sent to Nationwide in November 2020, but to accept any further late payments was not a fair representation of the situation, especially as she had no previous adverse information recorded on her credit file.
- The compensation of £150.00 was of little interest and didn't cover costs, or time incurred on this dispute

As Mrs S didn't ultimately agree with the investigator's view, the case has been passed to me to make a final decision on this case.

### **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'm in agreement with the investigator's opinion. I appreciate this will come as a disappointment to Mrs S, but I'll explain my reasoning below.

In order to consider if Nationwide has treated Mrs S fairly here – I need to think about whether it should have done more to assist her in getting her money back. That means considering whether Nationwide did enough in respect of the chargeback process and, if necessary, if its response to the Section 75 claim was fair and reasonable.

Here, as I am upholding Mrs S' complaint on the basis that Nationwide should have done more to assist her via the chargeback process, and my proposed redress in respect of that fairly, puts things right for Mrs S, I don't need to further consider the position under Section 75.

As both parties have now confirmed that the chargeback was successful, and the money was credited to Mrs S' account in February 2021, I will deal with the outstanding issues of the delays and the associated level of service that Mrs S received from Nationwide when it dealt with her chargeback and the adverse information it recorded on her credit file.

### **The service Mrs S received from Nationwide**

It might be helpful if I start off by explaining that in some cases a bank may be able to request a refund from the supplier through the chargeback scheme. This is a way in which payment settlement disputes are resolved between card holders and suppliers/merchants. They are dealt with under the relevant card scheme rules and in this case that is the VISA card scheme. In certain circumstances the process provides a way for Nationwide to ask for a payment Mrs S made to be refunded. Those circumstances can include where services aren't supplied by the company.

There is no obligation for a card issuer to raise a chargeback when a consumer asks for one. But I would consider it good practice for a chargeback to be attempted where the right exists and there is some prospect of success.

When a chargeback is raised, the scheme allows a given period of time - usually around a month - for the supplier to reply to say whether or not they agree to the refund. And when a supplier does defend a chargeback, this can lead to further representations by the cardholder's bank, if it considers the supplier has raised a weak or invalid defence. The process then allows for further representations to be made, if parties do not agree for the issue to be decided by the scheme in a process known as arbitration.

As a starting point, I don't think it was unreasonable for Nationwide to have initially requested the information it did. This would've helped it to assess if there was a valid claim and provide sufficient information to enable the merchant to identify the dispute for when the chargeback was raised.

However, following receipt of Mrs S' supporting evidence, which included emails from T saying she wouldn't be able to travel and use her accommodation booking, as well as the hotel being unable to confirm its position regarding its bookings, Nationwide continued to ask for evidence that the merchant cancelled the booking. When Mrs S couldn't provide anything further, Nationwide took the approach that as the service wasn't formally cancelled by the hotel itself, no chargeback right existed.

I can appreciate why Nationwide may have wanted to see something directly from the hotel and given there is only one chance to raise a chargeback, it would've wanted the best evidence from Mrs S before attempting a chargeback. However, in the circumstances, I consider what Mrs S had provided from T, strongly indicated that the services wouldn't be available for Mrs S to use. T acting as an agent for the hotel, told Mrs S that she wouldn't be able to travel and take up her accommodation booking, and also told her that the hotel itself couldn't provide any guarantees regarding her being able to use the accommodation, and so at that point, I don't think there was a need for Nationwide to get anything further from Mrs S and it should've raised the initial chargeback for her.

Having looked into the foreign travel advice on the government website, it was also made clear at the time, that at the time of Mrs S' planned visit, there was a national lockdown encompassing hotels and holiday homes in the country she was due to visit until at least 30 April 2020. And so, again it would've been clear that Mrs S would never have been able to use the services as they weren't available, and had the chargeback been initially raised based on the available information, I consider that it would have likely succeeded.

Nationwide ultimately did raise the chargeback and credited Mrs S' account on 17 February 2021. Whilst I appreciate Nationwide said that it only did so after Mrs S provided a further email from the hotel directly to say the service wasn't available, as I explained above I think it already had enough information prior, which already showed this, and the chargeback would likely have succeeded if it had been raised earlier.

Taking all the above into consideration, I consider Nationwide caused Mrs S distress and inconvenience by requesting further information on several occasions, when it didn't need to, and ultimately it should've raised the chargeback sooner than it actually did.

When considering what compensation to award Mrs S for the overall poor service, delays, and handling of her chargeback claim, I have however had to take into account that these weren't normal circumstances. It was an unprecedented and unusual time for the banks, when Mrs S first contacted Nationwide, dealing with significant numbers of enquires from

consumers looking to get money back as the global pandemic unfolded. Many of these claims will have brought up issues which were relatively novel, and the banks were having to digest new information, rules and guidance.

And so, in thinking about what to award Mrs S for compensation, I consider £150 as fair and reasonable, taking into account all the circumstances of the complaint.

#### Adverse information being recorded on Mrs S' credit file

Nationwide has said the adverse information recorded for October and November 2020 should remain, given that the balance on her credit card wasn't just made up of the disputed transaction, but also £2,015.88 of additional spending.

However, Nationwide's agreed to remove the late payment information for January 2021, as Mrs S was informed in December 2020 that the disputed amount left on her account would be frozen. As I consider this to be fair, what is now left for me to consider is the adverse information recorded for October and November 2020 by Nationwide.

Nationwide has provided detailed evidence about the letters that it sent to Mrs S between September 2020 and January 2021, including account statements, missed payment notices and notices of sums in arrears for her account, which outlined what the consequences would be if Mrs S didn't make payment, which included reporting this to the appropriate credit reference agencies.

While Mrs S says she didn't receive some of these letters, she has confirmed receipt of other letters, including the monthly late payment letters, which were sent to the same address. And so, I'm satisfied Nationwide sent these letters, and Mrs S would've been made aware of what was required to be paid on her account and the consequences of not doing so.

Whilst I have considered what Mrs S has said that regardless of the letters, she was repeatedly informed that her account was frozen and no payment was due by Nationwide, I have unfortunately not seen any persuasive evidence to support this claim.

I can see Nationwide initially sent a letter to Mrs S in August 2020 where it said the transaction, in question, had been placed into dispute, and that she was not expected to repay this, nor would she incur any interest charges, on the disputed amounts whilst it was investigating. However, I can see this was only referring to the disputed amount, and there was no mention of her additional spending of £2,142.97 being on hold, or her being told that she wouldn't have to make payment towards this amount.

In terms of phone calls, whilst Mrs S has maintained that she spoke to Nationwide regularly and was always told she didn't need to make payment, apart from the call in December 2020, which I already considered in relation to the January late fee marker, I can't see that she was ever told the whole amount was frozen or that she didn't need to make payments.

In any event, I can also see that in her email sent to Nationwide in November 2020 she accepted that she'd been withholding payments. And so, whilst I have considered Mrs S' arguments, taking everything into account, and given the fact that her credit card balance also included additional spending, not just the disputed transaction, I'm satisfied Mrs S was aware that she should be making payments but chose not to.

As she failed to make the payments, I consider Nationwide acted correctly when it registered missed payment markers on her credit file for October and November 2020. In terms of what was recorded, for October, I can see this showed two missed payments and for November it showed three missed payments. Whilst Mrs S has said prior to October 2020, her account

was registered as being in query with the credit reference agencies by Nationwide, and so the months recorded as missed were incorrect, unfortunately based on the available evidence I disagree.

From what I can see Mrs S made her last payment prior to October 2020 on 25 August 2020 for £100. This was however less than the amount that was due on her account for that month and given that she didn't then make any further payments, until December 2020, I think the months that were recorded as missed were correct. In terms of her account being in query, as I explained above, I have only seen Nationwide refer to the disputed amount as being in query and not the additional spending and so she was required to meet her monthly payments.

Taking everything into consideration, as Mrs S didn't make the required payments, and Nationwide acted correctly in sending letters to her when it didn't receive this, I consider it acted fairly and reasonably when it registered missed payment markers on her credit file for the months of October and November 2020.

Whilst I fully sympathise with Mrs S for the difficulties that she's described, I don't think Nationwide has acted unreasonably, and so, I won't be asking them to remove the adverse information recorded on her credit file for the months of October and November 2020.

### **My final decision**

My final decision is that I uphold Mrs S' complaint and if Nationwide Building Society hasn't already done so, it should do the following:

- Pay Mrs S compensation of £150 for the distress and inconvenience it caused her.
- Instruct the credit reference agencies to remove any adverse information recorded about Mrs S' account in January 2021 from her credit file

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 30 March 2022.

Farhana Akhtar  
**Ombudsman**