

The complaint

Mr C has complained about how National Westminster Bank Plc (trading as NatWest) has dealt with his claim in relation to a boiler purchased on his credit card.

What happened

In November 2019 Mr C paid £2,300 for a replacement boiler and installation. The “*Job Description*” on his invoice lists the boiler together with the following needed to install the boiler:

*“Standard flue with extension
two channel programmer
filter
inhibitor
system cleaner”*

Mr C paid an initial deposit of £100 on 22 November and then a further payment of £2,200 on 30 November. Both payments were made using his NatWest credit card.

Mr C has said that following the installation his radiators weren’t heating. He’s said the problem occurred as soon as the engineers left and that his radiators were working prior to this with his previous boiler. Mr C has provided notes of his contact with the supplier and has said he had a conversation with a manager on 3 December where the manager suggested additional work that was needed. The supplier came out to correct the problem on 5 December. However, around two weeks after this, Mr C says only some of the radiators were heating and this problem continued intermittently.

On 3 December Mr C contacted NatWest to try and recover the amount paid. NatWest requested further information from Mr C. This included a copy of the invoice, evidence that he had tried to resolve this issue directly with the supplier and evidence to show that he made the goods (in this case the boiler) available for the supplier to collect. Around a month later NatWest also requested an independent report detailing the fault with the boiler.

Following NatWest’s request there were a number of exchanges between Mr C and NatWest as this information was gathered. Mr C has also raised that he is unhappy with how NatWest progressed his claim during this time.

NatWest didn’t raise a chargeback request on Mr C’s behalf. It said that this was because, whilst Mr C had provided a copy of an independent report he had commissioned, it wasn’t legible. NatWest said it requested another copy of the report which was legible but this wasn’t provided. So NatWest felt it didn’t have enough evidence to pursue the chargeback. NatWest also said that the time Mr C took to gather the relevant information meant he was outside the 120 day time limit to raise the chargeback. NatWest also rejected Mr C’s claim under Section 75 (s75) of the Consumer Credit Act 1974 (CCA) as it argued Mr C hadn’t evidenced there had been a breach of contract or misrepresentation. NatWest did accept there were delays in issuing its response to Mr C’s complaint. Due to this, it offered £25 to compensate Mr C for the delay.

Mr C was unhappy with how NatWest had handled his claim and subsequent complaint about this, so he referred his complaint to our service. One of our investigators considered

his complaint but didn't uphold it. He also felt there wasn't enough evidence to show a fault with the boiler, so he didn't think a chargeback was likely to be successful and didn't think NatWest had unfairly declined Mr C's s75 claim. Mr C was unhappy with the investigator's assessment, particularly given how he felt NatWest had treated him while his claim was ongoing.

As an agreement couldn't be reached, the complaint has been passed to me to consider.

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 not going to uphold this complaint. I'll explain why below.

Chargeback

Mr C asked NatWest to raise a chargeback on his behalf to recover the amount paid to the supplier. A chargeback is a dispute resolution scheme administered by the card network. The scheme sets out various rules which need to be complied with and whilst NatWest has discretion about whether or not to raise a chargeback, I'd consider it to be good industry practice for NatWest to do so, but only where there is a reasonable prospect of success. Prior to raising a chargeback, Mr C also needed to demonstrate that he'd first exhausted attempts to try and resolve the issues with the supplier direct.

Mr C has provided a handwritten timeline of events to NatWest detailing the attempts made to rectify the issue with the supplier. Mr C's notes detail who he spoke to and when. It also provides a summary of what was discussed. From this I can see Mr C spoke to a manager at the supplier on 3 December 2019 and there was some discussion about additional work the manager felt could be needed. The supplier returned around two days later to rectify the problems and Mr C has said that after this visit the problems continued.

I think it's clear Mr C made efforts to get the issues rectified with the supplier. I've noted that Mr C raised these issues with NatWest around two days before the supplier came out to rectify the issues. However, as this didn't resolve the issue, I don't think this makes a difference. And so I think Mr C has provided enough detail to persuade me that he attempted to rectify the issue with the supplier directly.

As I've explained above NatWest didn't raise a chargeback on Mr C's behalf because it felt it didn't have a reasonable prospect of success. Looking at the relevant chargeback rules (which applied at the time) I can see that NatWest would've needed to select a reason code for the chargeback and I think the relevant reason code would've been "*Goods or services we're either not as described or defective.*" In this section it details that although optional, evidence should be provided to support the cardholder's version of events. In this case this would be evidence from Mr C that the boiler and/or installation were defective/faulty.

Mr C provided NatWest with a copy of an independent report which has been dated 6 December 2019. I can see from Mr C's contact notes, which NatWest has provided, that this report was received by NatWest on 3 February 2020. However, NatWest wasn't able to read the copy of the report provided and having also reviewed it, I agree it isn't legible. I understand a number of requests were made by NatWest to Mr C to obtain a copy which was legible. Looking at the contact notes I can see NatWest initially requested this on 9 March and then 19 March 2020 and when Mr C called NatWest on 26 May 2020 for an update, this was again requested. Mr C has said another copy of the report was subsequently sent to NatWest, but NatWest has maintained it doesn't have a legible copy of the report. Our service has also requested a legible copy of the report from Mr C which hasn't been provided. And without a legible copy of the report there is limited evidence of what the fault was or how it was caused. Particularly as the "*Completion Certificate*", "*Final*

Inspection Form” and *“Pre-inspection Checklist”* completed by the supplier suggest the boiler was fitted correctly and was working at the time of installation.

I’ve noted that Mr C did have discussions with the supplier on 3 December about additional work that might be needed. However, it doesn’t appear the manager inspected the boiler before reaching those conclusions (as Mr C’s notes suggest this was a telephone conversation) and Mr C disputes that this work was needed. So I don’t think this helps determine what the fault was and even if it did, it doesn’t demonstrate that the fault was caused by the supplier (resulting in a breach of contract).

So taking all of this into consideration, without evidence that the fault was caused by the boiler and/or the installation, I think it was reasonable for NatWest to conclude Mr C didn’t have a reasonable prospect of success with his chargeback request.

I’ve also considered NatWest’s additional point that Mr C was out of time to raise a chargeback request. NatWest is correct that Mr C had 120 days from when he discovered the fault to raise a chargeback request. I have noted that NatWest didn’t request an independent report until almost a month after Mr C initially contacted NatWest. It’s also not clear if Mr C was made aware of the time limits. However, I don’t think this makes a difference. I say this because NatWest has said it didn’t receive a legible copy of the report (despite requests) nor has Mr C provided a copy to our service upon request. So I’m not satisfied that even if Mr C knew about the deadline and there was no delay in NatWest requesting the information, that Mr C would’ve still provided this information in time. And so I don’t think NatWest acted unfairly in not raising a chargeback request.

Section 75 Claim

Section 75 CCA makes the provider of credit (NatWest in this case) equally liable where there is a case of misrepresentation or breach of contract by the supplier of the goods or services. For a s75 claim there are a number of different criteria which need to be met. Having looked at Mr C’s claim, I think he does meet the criteria to make a s.75 claim. In particular, I can see Mr C contracted with the supplier to purchase and install the boiler. Mr C paid the supplier directly using his credit card and the amount is within the relevant financial limits.

As explained above, Mr C has argued that there were problems immediately after the boiler installation. He’s said that not all of the radiators were heating and that this problem continued intermittently. So Mr C is arguing that the boiler wasn’t of satisfactory quality and/or the work carried out to install it wasn’t carried out with reasonable care and skill. The Consumer Rights Act 2015 implies terms to this effect into a contract for goods or services (or digital content). So if Mr C could demonstrate these arguments, he’d be able to show that the supplier breached the contract.

As explained above, Mr C has provided a copy of an independent engineer’s report completed on his new boiler after it was installed by the supplier, however it is illegible. NatWest made a number of requests for a legible copy but has maintained a legible copy wasn’t provided. Mr C’s notes say he sent NatWest another copy on 27 May 2020, but despite requests from our service, a legible copy hasn’t been provided. I also understand that one of our investigators tried to contact the company who completed the report, but was unable to gain another copy. So I don’t know what information was recorded in this report or whether or not it evidences a breach of contract.

As detailed above, I have considered Mr C’s notes of the conversation which took place with a manager for the supplier on 3 December. However, as I’ve explained, Mr C’s notes don’t suggest the manager inspected the boiler before suggesting work to be completed so I can place limited weight on whether this work did need completing or not. And even if I accept this work was needed, without an independent report, I don’t know if the additional work was needed as a result of the supplier breaching the contract.

Mr C has said he's taken a number of steps to try to rectify the issue he's experienced with the boiler and so our service has asked for details of any issues found and the steps taken to rectify them. Mr C has said he took out an emergency cover policy and a boiler maintenance contract (both with different companies to the supplier). He's said the boiler maintenance company has completed inspections on the boiler and he provided a copy of an inspection report from January 2021. However, having reviewed this document, I can't see that it provides any details on the ongoing fault Mr C has described or a potential cause of this. This report demonstrates that the boiler had passed the various checks completed and was working. Mr C has also said an emergency engineer from a local company came out to fix the boiler fault. However, he's said he paid them in cash and wasn't given any information about the work which was completed.

I've carefully considered everything Mr C has told us about the problems he's experienced and the steps he's taken to rectify them. I don't doubt Mr C has experienced these problems and I appreciate that this will have been distressing for Mr C and his family. However, in order to uphold his complaint I'd need to be satisfied that the problems were caused by the boiler and/or the installation of it, resulting in a breach of contract. And I've seen nothing to conclusively show what the problem was or the cause of it. So because of this I'm unable to say there's been a breach of contract or that NatWest acted unfairly in not upholding his claim.

Delays in progressing Mr C's claim

Mr C has also raised a number of concerns about how NatWest progressed his claim. He's said he repeatedly had to chase NatWest and he found the whole process very distressing and stressful.

I've reviewed Mr C's timeline of events together with NatWest's contact notes with Mr C. Given the amount of contact between the parties I don't intend to set this out in full here. However, whilst I can see a number of delays, I think both parties bear some responsibility for this. I'll explain why below.

The main delays in progressing Mr C's claim are down to gathering the required evidence. Having reviewed both NatWest's and Mr C's timelines of events, I can see NatWest caused delays in not requesting all the required information at once. However, equally some of the delays were caused by NatWest waiting on information from Mr C. I can also see that some of the evidence which NatWest asked for was either missing or incomplete from the information Mr C sent. This therefore resulted in further requests and delays. In particular, as I've explained above, Mr C sent a copy of the engineers report which NatWest couldn't read. NatWest chased for a legible copy several times, but has said one wasn't provided. NatWest also chased for proof that Mr C had made the goods available for the supplier to collect which wasn't initially provided.

Taking everything into consideration, I don't doubt that having problems with his heating and the length of time it was taking to resolve matters was causing Mr C distress. However, I can't conclude that NatWest unfairly delayed his claim and that Mr C should be compensated for this when there's insufficient evidence NatWest caused significant delays. I'm also not satisfied that even if NatWest had done everything right this would've materially impacted how long his claim took given Mr C's actions. So I'm currently not recommending NatWest do anything more in relation to this.

As I've detailed above, NatWest did delay in providing a response letter to Mr C's complaint (the complaint that was subsequently made when his claim was unsuccessful) and has offered him £25 for this. This seems fair in the circumstances and I'm not going to direct NatWest to do anything further.

My final decision

For the reasons above, I'm not upholding Mr C's complaint about National Westminster Bank Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 15 March 2022.



Claire Lisle
Ombudsman