

## The complaint

Mr G complains that Nationwide Building Society won't refund to him the money that he paid to a supplier for some holiday credits.

## What happened

Mr G and his wife entered into a purchase agreement with a supplier in June 2014 to trade-in some timeshare rights and to purchase 224,018 holiday credits. The price payable under that agreement was £6,601 which was due within 15 days. They also received an invoice from a company linked to the supplier, with the same date as that on the purchase agreement, for a handheld device and a *"voucher pack to the value of £4,850"*. The total amount of the invoice was €1,195.76. Mr G paid £1,000 (which was also shown on the receipt as €1,195.76) to another company linked to the supplier using his Nationwide credit card on the same date.

Mr G made a claim to Nationwide under section 75 of the Consumer Credit Act 1974 in 2019 but it said that there was no basis to settle the dispute as the contract in dispute was financed solely by Mr G's Nationwide debit card. Mr G then made another section 75 claim to Nationwide in April 2023. He said that the seller misrepresented the contract to him which had caused him a monetary loss and had breached the contract. He didn't receive a response from Nationwide so he complained to this service in August 2023.

Nationwide then responded to his claim in November 2023. It apologised for the poor level of service that it had provided and offered Mr G £50 compensation. But it said that the evidence provided showed that the purchase of £1,000 on his Nationwide credit card account was for a handheld device and the payment of £6,601 was for the holiday credits (which wasn't paid for using his Nationwide credit card account). And it said that it had no way of proving that the two transactions were connected.

The complaint was then looked at by one of this service's investigators who, having considered everything, thought that it should be upheld. He was satisfied that the two contracts were linked and were both covered by the transaction that Mr G made on his Nationwide credit card. He said that the supplier went into liquidation in July 2019 so was then unable to offer any services so he believed that Mr G's section 75 claim should be successful as there had been a breach of contract. He recommended that Nationwide should pay Mr G the £7,601 that he paid to the supplier for its services, with interest from 1 July 2019.

Nationwide didn't agree with that assessment so I've been asked to issue a decision on this complaint. Nationwide says that the invoice demonstrates that the transaction of £1,000 was paid by credit card for the purchase of a handheld device in June 2014 and wasn't used to purchase the holiday credits with a contractual value of £6,601 so it didn't facilitate the disputed purchase as the creditor and there's no debtor-creditor-supplier agreement. It also says that the claim was raised outside of the six-year timeframe under the statute of limitations and Mr G didn't use any of the credits before the supplier went into liquidation.

## **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.

In certain circumstances, section 75 gives a consumer an equal right to claim against the supplier of goods or services or the provider of credit if there's been a breach of contract or misrepresentation by the supplier. One of those criteria is that there must be a debtor-creditor-supplier agreement. So to be able to uphold Mr G's complaint about Nationwide, I must be satisfied that: there's a debtor-creditor-supplier agreement; there's been a breach of contract or misrepresentation by the supplier; and Nationwide's response to Mr G's claim under section 75 wasn't fair or reasonable. But I'm not determining the outcome of his claim under section 75 as only a court would be able to do that.

I've carefully considered the purchase agreement and the invoice. Mr G has also provided the supplier's internal worksheet which shows that Mr G and his wife were buying 224,018 holiday credits and trading-in some timeshare rights for a price of £7,601. Although different company names are used in those documents, I'm satisfied that the companies are associates under section 184 of the Consumer Credit Act.

Mr G says that the price was £7,601 and that it was broken down into two payments over the two agreements. I'm not persuaded that it's likely that Mr G would have paid £1,000 for the handheld device and the vouchers unless he and his wife were also trading-in their timeshare rights and receiving the holiday credits. So I consider it to be more likely than not that the payment of £1,000 that Mr G made using his Nationwide credit card was a part of the payment of £7,601 that he and his wife agreed to pay to the supplier for all of the services that it was providing. So I consider that there was a debtor-creditor-supplier agreement between Mr G, Nationwide and the supplier in these circumstances.

There doesn't seem to be any dispute that the supplier went into liquidation in about July 2019 so was unable to provide services under the purchase agreement to Mr G and his wife after that date. Mr G says that he and his wife are now unable to use the credits and I've seen no evidence to show that they used any of them before the supplier went into liquidation.

I consider that the liquidation of the supplier is a breach of contract for which Nationwide would be liable under section 75 in these circumstances. Mr G's claim to Nationwide was made in April 2023, so less than six years after the breach of contract had occurred, so I consider that his claim was made in time and isn't time-barred.

## **Putting things right**

I find that it would be fair and reasonable in these circumstances for Nationwide to pay £7,601 to Mr G to refund him for the payments that he made to the supplier and that it should pay interest on that amount from 1 July 2019 (being the date of the liquidation). Nationwide offered Mr G £50 compensation for the poor level of service that it had provided. If it hasn't paid that compensation to him, I find that it would be fair and reasonable for it to also pay him £50 compensation.

## **My final decision**

For these reasons, my decision is that I uphold Mr G's complaint and I order Nationwide Building Society to:

1. Pay £7,601 to Mr G to refund him for the payments that he made to the supplier.

2. Pay interest on that amount at an annual rate of 8% simple from 1 July 2019 to the date of settlement.

3. If it hasn't already done so, pay to Mr G the £50 compensation that it offered him.

HM Revenue & Customs requires Nationwide to deduct tax from the interest payment referred to above. Nationwide must give Mr G a certificate showing how much tax it's deducted if he asks it for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 11 July 2024.

Jarrold Hastings  
**Ombudsman**