

## **The complaint**

Mr S is unhappy with how Nationwide Building Society (Nationwide) handled a claim he made to them.

## **What happened**

Mr S purchased a sofa, a love seat and a footstool from a supplier I shall call M on 30 March 2023. £1000,00 of the total was paid by Mr S on his credit card and a further £3471,00 was paid by Mrs S on her credit card.

For the purposes of this case I'll only be addressing Mr S' complaint to Nationwide about the handling of his own claim under his credit card purchase. I'm also aware that Mrs S was involved in most of the correspondence with M regarding the issue so I've considered the communication to and from Mrs S when considering the merits of Mr S' claim as well.

The sofa subsequently arrived in August 2023 but Mr S says it was reported to M as faulty two days later. He says the sofa was sagging and the stitching was becoming loose.

Mr S then had an independent technician visit at the start of September 2023 who inspected the sofa to determine next steps. A replacement sofa was then ordered, however Mr S asked for a refund on 30 September 2023 instead as he didn't have any confidence in the replacement. He also noted the accompanying footstool ordered also hadn't been delivered in time as an additional issue. Lastly he asked for another visit regarding the on-going faults with the current sofa.

M confirmed at the start of October 2023 that the footstool had arrived but they couldn't stop production of the replacement sofa as it had already started. They also clarified that there was no need for a further visit as a replacement had already been ordered for Mr S. M also confirmed the issue had arisen due to a broken seat platform rail as a key part of the sofa structure, which would've put strain on other components.

Mr S subsequently sent a letter to M on 27 October 2023 confirming their request to reject. As the matter was not addressed at the time, Mr S contacted Nationwide to raise a chargeback claim against M and a Consumer Credit Act 1974 ("CCA") section 75 claim ("S75") against Nationwide.

Nationwide subsequently raised a chargeback claim in December 2023. However the chargeback claim was disputed by M and they said Mr S had agreed to the replacement sofas. Nationwide therefore declined the claim as they didn't believe there was any further prospect of success as the matter had been addressed.

Mr S disagreed and felt he initially had the right to a refund for the original sofa rather than having to accept a replacement. As a result he remained dissatisfied with the general handling of his claim by Nationwide and raised a complaint. Nationwide sent a final response letter (FRL) on 21 March 2024 confirming their position and why they believed they hadn't done anything wrong.

As Mr S remained dissatisfied, he brought the complaint to our service. Our investigator looked at the complaint but didn't uphold it. They said that while Mr S did initially have a right under the Consumer Rights Act 2015 (CRA) to reject the goods within thirty days of delivery, they had insufficient evidence Mr S exercised these rights in time. They felt Mr S had instead allowed M the opportunity to see if they could repair or replace the sofa in line with the CRA. And as M were unable to repair the sofa, they arranged a replacement instead.

Our investigator therefore felt Nationwide had administered Mr S' chargeback claim correctly by declining it as Mr S had accepted a resolution in the replacement sofas so there was no further prospect of success. They also said Nationwide didn't raise a S75 claim as well but felt it was also unlikely to succeed as they didn't think Mr S had exercised his right to reject as necessary.

As Mr S didn't agree, he asked for an ombudsman to make a final 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.

I've read and considered the evidence submitted by the parties but won't comment on it all – only the matters I consider to be central to this complaint. This isn't intended as a discourtesy but reflects my role in resolving disputes informally.

It's important to note that Nationwide aren't the provider of the goods here – so in deciding what is fair and reasonable, I'm looking at their particular role as a provider of financial services. In doing so I note that because Mr S paid for this transaction using his credit card, both chargeback and a S75 claim could possibly help him. So in deciding what is fair and reasonable I've focussed on this.

### **Chargeback**

There is no requirement for Nationwide to raise a chargeback, but it's often good practice to do so. However, a chargeback isn't guaranteed to succeed and is governed by the limitations of the particular card scheme rules (in this case VISA). I've considered the relevant chargeback rules in deciding whether Nationwide acted fairly.

As Mr S' sofa was faulty, his chargeback claim is most likely to fall under 'not as described or defective merchandise / services'.

Before discussion of the merits of the chargeback claim, I note Mr S said in his complaint form to us that he was told by Nationwide on 8 December 2023 that the refunded money following the chargeback claim was theirs, to only find it was re-debited back after.

I see this was raised by Mrs S as a part of her own chargeback claim complaint as there was an error resulting in her being refunded twice so I won't go into this in detail here. I'm aware however compensation was paid to Mrs S for what'd happened and the general claim handling which was accepted to resolve that aspect of her complaint.

I also see Nationwide did raise Mr S' chargeback claim, however M disputed this and said the matter had been resolved with Mr S directly as they had accepted the replacement. Mr S said he had exercised his rights to reject the sofa but M had not addressed this appropriately.

Nationwide declined the chargeback claim and in their FRL of 21 March 2024 clarified they felt the matter had been addressed. I do consider Nationwide acted correctly here and the chargeback was unlikely to succeed. The correspondence from Mr S to M on 25 September 2023, following a discussion with M, asks for a confirmation of the dates the replacement sofas would be available and that they'd discussed a Christmas date. Mr S said they didn't want the assembly rushed but wanted a date that would work for them.

The correspondence also says that if there are issues with the replacements Mr S wouldn't want to go through the same process again and would want a refund based on the terms and conditions. Mr S said however that they hoped the new ones were 'perfect' and also noted M had provided reassurance this is the only time they had seen such issues from the manufacturer.

This to me is an acceptance of the replacement sofas to address what'd happened and a request for clarification of dates of delivery. M responded the following day confirming the sofas should be back with Mr S in November 2023. However it was only on 30 September 2023 that Mr S wrote back and said that 'on reflection' they wished to cancel the replacement. This was unfortunately too late as the sofa had already entered production.

As Mr S had previously talked about the replacement sofas, their expected delivery date and their hope they would be of the required quality, I do think it was reasonable to consider they had accepted this as a resolution. Therefore I can't say Nationwide acted unfairly in declining the chargeback claim as it was unlikely to succeed for the fact that a resolution from M had been reasonably accepted.

I also note Nationwide seemed to have referred in their FRL to the outcome of the chargeback claim as the S75 claim in error, as they've repeatedly referred to the card issuer VISA when discussing the outcome, which would be tied to a chargeback claim.

Therefore I do consider the FRL should have been clearer explaining that it was the chargeback claim that was declined and not the S75 claim.

Regardless Mr S' concerns stem from the fact he believes he should have been allowed the opportunity to reject the goods at the end of September 2023. I do think this issue is better considered under S75 on whether M failing to do so constituted a breach of contract on their part.

## **S75**

S75 provides that in certain circumstances the borrower under a credit agreement has an equal right to claim against the credit provider if there is either a breach of contract or misrepresentation by the supplier of goods and services.

S75 has certain technical requirements for there to be a valid claim. I'm satisfied those are in place here. Regarding the handling of the S75 claim itself, Nationwide indicated in their FRL that there may be a need for the claim based on Mr S' concerns about the quality of goods.

So, in considering how Nationwide responded to Mr S' S75 claim, I've gone on to consider if there is a likely breach of contract or misrepresentation by the supplier which Nationwide is responsible for putting right.

As the issue is tied to the quality of goods provided, I don't think the focus of Mr S' claim is misrepresentation – but breach of contract relating to the faulty sofa. So I don't think it necessary to consider misrepresentation in any depth here.

In order to assess a valid claim, Nationwide would've needed to consider all relevant evidence with regard to the alleged breach of contract. The FRL in March 2024 suggests further considerations for the S75 'team' so I do need to consider if any delay on Nationwide's part here unfairly impacted Mr S

As the FRL seems to refer to the chargeback claim as a S75 claim, it's likely that it was only the chargeback claim that was reached and it doesn't look like a S75 claim was under consideration in March at the time of the FRL. As the S75 claim should've also been raised at the end of 2023 alongside the chargeback claim, I've gone on to consider whether there was a breach of contract by M in any event with mind to the S75 claim, and so if there was a resultant impact on Mr S for any delays in its administration by Nationwide.

I've reviewed M's terms and conditions and they do confirm that returns could be arranged for faulty goods. Mr S says he contacted M soon after delivery regarding the problems and the terms do say the consumer would be contacted to discuss a replacement or refund option. I note Mr S wrote to our investigator on 16 September 2024 and said the following:

*"They were given the one opportunity to repair which is in the consumer sales act. After that they were asked for a refund which they refused because they had already ordered a replacement without our authority"*

While Mr S has referred to the consumer sales act, I consider he is likely referring to the CRA instead in terms of the opportunity to repair. The CRA is certainly relevant in this case. It states that under a contract to supply goods, there is an implied term that *'the quality of the goods is satisfactory, fit for purpose and as described'*. To be considered as satisfactory, the CRA says the goods need to meet the standards that a reasonable person would consider satisfactory, considering any description of the goods, the price and all relevant circumstances.

In this case clearly the sofa didn't meet these requirements following the technician visit and so a replacement was ordered. To clarify, the correct section regarding the right to repair or replace under CRA is the following.

*"23 Right to repair or replacement*

*(1) This section applies if the consumer has the right to repair or replacement (see section 19(3) and (4)).*

*(2) If the consumer requires the trader to repair or replace the goods, the trader must –*

*(a) do so within a reasonable time and without significant inconvenience to the consumer, and*

*(b) bear any necessary costs incurred in doing so (including in particular the cost of any labour, materials or postage)".*

This does say that this section would apply if the consumer required the trader to repair and replace. And as explained above, the correspondence between Mr S and M confirms that Mr S initially accepted the sofa replacement.

The CRA also explains the right to reject under section 20 regarding the entitlement to reject the goods and treat the contract at an end. It clarifies the following:

*(5) The right is exercised if the consumer indicates to the trader that the consumer is rejecting the goods and treating the contract as at an end.*

*(6) The indication may be something the consumer says or does, but it must be clear enough to be understood by the trader.*

While Mr S did ask for a refund on 30 September 2023, and also sent a letter rejecting the sofa the following month, this was following the earlier discussions which show Mr S was happy to accept replacements and was considering the likely delivery date. Therefore I don't consider this right was exercised in time as the replacement had since entered production.

The CRA does state the intention for a consumer to reject should be clear enough to be understood but I've insufficient evidence this intention was conveyed here before acceptance of the replacements.

As a result I don't think Nationwide need do anything more regarding Mr S' breach of contract claim under S75 as he didn't have a further right to reject unless the second sofa was also not of a satisfactory quality. I note Mr S has said M did eventually make an offer to refund him for the cost of the sofa after delivery of the replacement.

While I appreciate Nationwide should've been clearer in its final response and in addition a S75 claim could've been raised earlier, I've insufficient evidence there was a prospect of either a successful chargeback claim or a S75 claim for breach of contract.

I therefore don't think Nationwide could've done more regarding their handling of these claims.

**My final decision**

For the reasons above, 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 13 May 2025.

Viral Patel  
**Ombudsman**