

The complaint

Mr K complains that National Westminster Bank Plc ("NatWest") failed to pursue a chargeback correctly, failed to make him aware of the protections provided by section 75 Consumer Credit Act 1974 ("s.75") and failed to make adjustments for his health.

What happened

This service has received lengthy and detailed material regarding this complaint including a 40 page claim made to NatWest by Mr K. I would like to assure both parties that I have read all the material submitted, but as both are fully aware of the details of what happened for the purposes of this decision I will set out a brief summary of events.

Mr K enrolled with a martial arts academy ("the Merchant"). After attending the training, he participated in a graduation ceremony for which an additional payment was required. Mr K did not consider he had been properly evaluated at the ceremony and complained to the Merchant.

His complaint remained unresolved and so he contacted NatWest. He set out in great detail what he considered to be the failings of the Merchant. The key element which underpinned Mr K's claim was that the Merchant had been guilty of misrepresentation. NatWest considered the claims made by Mr K and noted he had taken the lessons. It concluded that as the service had been utilised there was no basis for making a chargeback.

Mr K complained to NatWest and said the core of his claim was misrepresentation. In essence the Merchant had misrepresented its services including a claim that it was linked to another school of martial arts practitioners. NatWest rejected his complaint and so he brought a complaint to this service. He sought a return of the fees etc. he had paid the Merchant and consequential losses.

The complaint was considered by one of our investigators who didn't recommend it be upheld. He said that NatWest was not under an obligation to tell Mr K about s.75. Nor did he think that Mr K's claim was suitable for the chargeback regime. He noted NatWest had considered the claim under the reason code in Mastercard's rules entitled "goods or services were not as described or defective". He believed this to be appropriate.

He also explained that this service had obtained clarification of MasterCard's application of its rules and had been advised that where the service has been received in full, it is treated as the service being received is accepted and there are no chargeback rights.

As for the matter of adjustments made by NatWest for Mr K's health condition, he had not seen anything to indicate it had not acted as it should have done.

Mr K didn't agree and asked that the matter be considered by an ombudsman. He said that partial use of the service didn't negate the right to dispute the payment. He reiterated that the training course had been misrepresented. He believed NatWest had not taken into account his documented disabilities. Nor had it told him about the protection afforded by s.75. Later he raised other issues regarding the Merchant which our investigator explained

were not within our remit.

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 appreciate the strength of feeling Mr K has exhibited in pursuit of both his claim and his complaint, but I do not consider I can uphold the latter. I will explain why.

Firstly, I should make it clear that the role of the Financial Ombudsman Service is to resolve individual complaints and to award redress where appropriate. I do not perform the role of the industry regulator and I do not have the power to make rules for financial businesses or to punish them.

I take account of law and regulations, regulators' rules, guidance and standards, and codes of practice and good industry practice, when I make my decision as to what is fair and reasonable.

While I might not comment on everything (only what I consider key) this is not meant as a discourtesy to either party – it reflects my role resolving disputes informally.

S. 75

NatWest was under no obligation to inform Mr K of the protections afforded by s.75 when he opened his bank account or at any other time. Material on s.75 is readily available from any number of sources including NatWest's website. Mr K has exhibited a detailed knowledge of consumer law and it was his decision to make the payment using his debit card. I would add that I believe NatWest would have rejected any claim under s.75 he may have made had he used a credit card and I do not think it would have given him what he is seeking.

Chargeback

Chargeback allows for a refund to be made of money paid with a credit or debit card in certain scenarios, such as when goods have been paid for and not received. A consumer cannot insist on their bank attempting a chargeback, but I would expect it to attempt one, as a matter of good practice, if there was a reasonable prospect of succeeding and to do so would be compliant with the rules of the card scheme to which the card belongs, in this case Mastercard.

Mr K paid for the training on a rolling basis and attended the classes to develop his skills. After he failed to graduate at the level expected he complained to the Merchant. In his claim to NatWest he explained that he had a number of concerns about the Merchant throughout his training. Despite those concerns he continued to make use of the training and facilities provided by the Merchant. However, he has suggested that he felt uncomfortable in the class and the Merchant did not offer him the support he required.

He said that on graduation day he suffered from a panic attack and was reassured he had performed well, but the following day the result was not as he had hoped. He was offered a re-test, but felt this would not have been beneficial. Overall he felt he had been misled in a number of ways by the Merchant.

NatWest looked at the material supplied by Mr K and concluded the appropriate reason code under MasterCard's rules was "goods or services were not as described or defective". I think this is the most appropriate code to have explored. These rules set out that the goods or

services should match their description. Mr K has told the bank that the Merchant had misrepresented the training and that equates to the services not being as described.

I have reviewed the claim he made to NatWest to see if this would have allowed it to conclude the services the club offered did not match the description.

I note that in the early days of his membership Mr K was more than happy with the club and said the lead instructor had exceeded his expectations. He was “delighted with the premises, the teacher, the students and the atmosphere”.

However, it seems that he changed his mind at a later date. For example, Mr K says that he found it challenging to make friends and that the primary instructor was not always present. He also said he was not made aware of roadworks which made getting to the club difficult.

I think much of what Mr K claims is subjective and while he may have felt he was misled others may have come to a different conclusion. That is not to say his feelings were not genuine, but I do not consider that is enough to establish a valid claim under the chargeback system.

I have not seen any written contract signed by Mr K, but I believe he attended a taster session and was satisfied with that such that he continued with the course. Without a written contract it makes it more challenging to establish that the services he was offered were not provided.

I have looked at the Merchant’s website to see what was offered and while this may have changed since Mr K joined the club I have seen nothing which indicates misrepresentation. It refers to a style of martial arts developed by a particular family of practitioners, but it does not say it is affiliated to that group. Nor can I see that it claims to be affiliated to any governing body, although it may be.

As for the decision not to award the blue belt to Mr K it is difficult to say that this was incorrect. The club has said it provided feedback from several instructors, but Mr K feels this was not sufficiently clear. It has made it clear that in the view of the black belt instructors Mr K did not satisfy the requirements to be given a blue belt. He disagrees, but I cannot say from the material I have seen that the club was wrong in its decision.

NatWest concluded that he had attended the classes and had derived benefit from them despite not being happy with the Merchant. In its experience it concluded that a chargeback had little chance of success and so did not make one. Having reviewed all the material provided by Mr K I consider that was a reasonable decision. It must be borne in mind that chargeback is voluntary and NatWest was not obliged to make one. It is entitled to evaluate the evidence and make a decision on what to do. I would only seek to overturn that decision if I believed it to have been wrong.

It is clear from the email from the merchant sent to Mr K after he complained that it would challenge any chargeback and that it had grounds for doing so. That email sympathised with Mr K and offered the opportunity to Mr K to seek a resolution, but it also made it clear that it did not consider his complaint justified.

It is not within NatWest’s gift to determine the outcome of any chargeback. That ultimately lies with MasterCard and it would have had to decide the outcome if any appeal was made, but I cannot see that it would find in Mr K’s favour. Overall, I cannot say that NatWest was wrong not to pursue a chargeback.

NatWest’s Adjustments

I have noted Mr K's claim and I have every sympathy for him, but I do not consider I can uphold this part of his complaint. I have seen NatWest's notes which record that he told it that he had an illness or long term health condition and that he required extra time when he spoke with it. I have noted most of his claim and complaint was conducted in writing via email and while he may have found the outcome distressing it does not appear that NatWest caused him unnecessary distress.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 10 April 2025.

Ivor Graham
Ombudsman