

## The complaint

Miss B complains that Nationwide Building Society declined her claim under Section 75 of the Consumer Credit Act 1974 ('Section 75').

## What happened

In 2016, Miss B bought a "*single soft-grade mattress*" from a retailer I'll refer to as "H". Miss B made the purchase using her Nationwide credit card.

By 2023, Miss B had become unhappy with the mattress's comfort and sagging. Miss B said the mattress had been sold with a 30-year manufacturer's guarantee. So, Miss B complained to H about the mattress, who arranged for a firm I'll refer to as "E" to inspect it.

After inspecting the mattress, E said it is fully supportive with no defects. E said that for a seven-year-old soft-grade mattress, the manufacturer would have expected "settlement" (sagging) of up to seven and a half centimetres. However, the settlement of Miss B's mattress was approximately four centimetres – well within tolerance – and there was no evidence of manufacturing faults. E added the presence of a board underneath the mattress would have very little, if any, impact on the measurements taken during the inspection.

Miss B objected to the report's findings for a number of reasons, but H declined to offer her a refund or replacement of the bed. So, Miss B asked Nationwide for a refund of her mattress under Section 75.

Nationwide said there was no evidence H had misrepresented the mattress to Miss B as there was no evidence to show H had claimed the mattress wouldn't sag and the mattress's warranty didn't state there would be no reduced functionality over time. Overall, Nationwide said there was no breach of contract or misrepresentation on H's part. Finally, Nationwide added it had found no errors in its handling of Miss B's claim.

Miss B referred her complaint to our service. Miss B said she wouldn't have purchased the mattress if she had been made aware of the manufacturer's criteria for a faulty mattress required the mattress to have sagged (in her view) significantly. Miss B said the manufacturer's brochure, which was provided to her by H, misrepresented the quality of the mattress. Miss B added she disagreed with the inspection and added other manufacturers have smaller settlement tolerances.

After referring her complaint to our service, the manufacturer offered to replace Miss B's mattress. The manufacturer said:

*"...I really appreciate you taking the time to talk through your experience and pointing out where we can improve on making people more aware about settlement or body impressions that can evolve over time. Although we have guidelines in place, I would really appreciate the opportunity to take your mattress back to our workshop... and investigate the settlement."*

Miss B declined the manufacturer's offer of a replacement because she was unhappy about

the settlement level required for the manufacturer's guarantee to come into effect.

One of our Investigators reviewed the complaint and said Nationwide's decision to decline Miss B's claim under Section 75 was a reasonable one as E's report found no fault with the mattress. Miss B disagreed, arguing the mattress's brochure misrepresented the quality of the mattress. Miss B said the fault criteria was not set independently and the fault criteria was applied retrospectively. So, this has come to me for a 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 considered the information submitted by all the relevant parties but won't be commenting on it all – only what I consider to be crucial to the outcome of this complaint. This isn't intended as a discourtesy to either party but reflects the informal nature of our service.

I note Miss B has indicated she is unclear why H has no responsibility here. Our service can help with complaints about most kinds of financial products and services provided in or from the UK – we're not able to consider a complaint against H directly.

In deciding this complaint, I've considered Nationwide's actions in its limited role as the provider of financial services. In doing so, I've considered Nationwide's response to Miss B's Section 75 claim and, as she has mentioned it, whether it should have attempted a chargeback.

In certain circumstances, chargeback provides a way for Nationwide to ask for a payment Miss B has made to be refunded. However, there are time limits for raising a chargeback, which usually expire 120 days after a purchase or the date on which goods or services were due to be delivered. As Miss B contacted Nationwide over eight years, the time limit for raising a chargeback had clearly passed so I think Nationwide was right not to raise a chargeback.

Section 75 gives a consumer an equal right to claim against the provider of credit (Nationwide) if there has been a breach of contract or misrepresentation by the supplier (H). I'm satisfied there is the necessary debtor-creditor-supplier agreement in place here and the financial limits for making a claim have been met.

I note Miss B has referred to the Consumer Rights Act (CRA) 2015, which sets out that every contract to supply goods is to be treated as including a term that the quality of goods is satisfactory. The quality of goods is satisfactory if they meet the standard that a reasonable person would consider satisfactory, taking account of the goods' description, price and other relevant circumstances. I have considered the CRA when deciding whether it was reasonable for Nationwide to conclude there was insufficient evidence of a breach of contract or misrepresentation on H's part.

### **Breach of contract**

Here, Miss B says the mattress is not sufficiently durable because of its settlement so, therefore, the mattress is not of satisfactory quality.

I think it's important to highlight the length of time that passed since the purchase of the

mattress and her complaint means that here it is for Miss B to provide evidence to show the mattress wasn't of satisfactory quality. And having considered the evidence available, I'm not persuaded the evidence shows the mattress was faulty or of unsatisfactory quality. for

I've reviewed the comments provided by the manufacturer, and there is no admission that the mattress was not of satisfactory quality. Having reviewed the report and evidence provided by E, it says there is no evidence of a manufacturer's fault. Having reviewed Miss B's submissions, I've not seen evidence to support

Miss B says it was conjecture for E to say the wooden board she placed under her mattress would have made little difference, but the report was completed by an independent inspection company that has years of experience of testing mattresses who confirmed this wouldn't have impacted its report findings, Whilst Miss B may find the mattress less comfortable now, comfort is highly subjective and what one person finds comfortable, another may not. And whilst I understand the reasons why Miss B has chosen not to instruct her own independent report, it remains there is no independent or professional opinion on the quality of the mattress that contradicts the findings in E's report.

Overall, I think it was fair for Nationwide to rely on E's report to conclude there was insufficient evidence to show a breach of contract on H's part.

### Misrepresentation

Miss B feels strongly the claims made in the mattress's brochure misrepresented the quality of the mattress. It's unclear whether the brochure was given to Miss B by H, or by the manufacturer. But for ease, I've decided this case as if H provided Miss B with the brochure and is responsible for any misrepresentations contained within it.

Miss B says the brochure's failure to mention the fault criteria for the mattress in its guarantee was an omission, and she would not have purchased the mattress had she been made aware of it. The manufacturer offered a 30-year guarantee for any imperfection which is due to faulty materials or workmanship that become apparent in the mattress. Whilst the manufacturer said Miss B had pointed out where it could improve on making people aware about settlement or body impressions that can evolve over time, this isn't an admission that it should have provided this information at the point of sale. I don't think it would be reasonable to conclude there was a misrepresentation of the quality of the mattress because the guarantee didn't provide a detailed breakdown of the level of sagging that may be experienced by customers as these depend on the softness of the mattress, the materials used and will vary from model to model and usage. Further, I've not seen that other mattress manufacturers commonly disclose their fault criteria in their guarantees and doing so doesn't appear to be a common industry practice. So, again, I don't think it would be reasonable to conclude there was a misrepresentation because the guarantee failed to disclose fault criteria.

Aside from the guarantee, the brochure contained other statements about the mattress that Miss B thinks were misrepresentations about the quality of the mattress. As an example, the brochure says the mattress would "*maintain its form in the face of repeated use*" and "*readapt their original shape to preserve your bed's structure for many years to come.*" Miss B says these claims are at odds with the settlement of her mattress.

But having reviewed the excerpts of the brochure provided by Miss B, I have seen nothing in the brochure that indicates there will be no settlement of the mattress, so I don't think there was a misrepresentation here. Overall, I don't think it was unreasonable for Nationwide to conclude the mattress was misrepresented at the point of sale.

Miss B has argued the mattress's price means a reasonable person would not consider the settlement to be of satisfactory quality, alongside information contained within the manufacturer's brochure. However, E's report says all mattresses experience settlement and the mattress was without fault. I think the report shows the mattress is of a standard that a reasonable person would consider satisfactory.

Overall, I think it was reasonable for Nationwide to conclude there was insufficient evidence of misrepresentation or breach of contract on H's part and decline her Section 75 claim accordingly.

#### Nationwide's handling of Miss B's claim

Whilst it's clear Nationwide has not responded to Miss B's claim in as much detail as she may like, I think its response to her complaint made clear it had considered E's report and decided there was no evidence of a breach of contract or misrepresentation on H's part. Overall, I'm satisfied Nationwide's response was reasonably clear when explaining why it had declined Miss B's claim. I've seen no evidence of errors in Nationwide's handling of her claim that warrant compensation.

#### **My final decision**

For the reasons explained above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 15 July 2025.

Victoria Blackwood  
**Ombudsman**