

## **The complaint**

Mr K complains that Nationwide Building Society (Nationwide) failed to refund him for an unsatisfactory meal through its disputes process.

## **What happened**

Mr K paid for a meal for himself and three others on 8 August 2024 using his Nationwide credit card. He said on receiving the meal it was cold. Mr K said he told the waiting staff about this, but the restaurant was unable to do anything about it because the kitchen had closed for the evening and it was late, so they told him to call back the next day. Mr K says the whole party felt unwell the day after the visit to the restaurant and they attributed this to the meal they'd had the night before. Mr K says he tried three times to contact the restaurant, but the phone wasn't answered. His daughter tried a fourth time, and the restaurant hung up on her.

As he was unable to resolve things with the restaurant directly, he contacted Nationwide on 14 August 2024 to raise a dispute for the total cost of the meal.

Nationwide didn't think there was a valid chargeback claim so it didn't consider the dispute under the chargeback process. It also let Mr K know it didn't think Mr K's dispute was eligible to be considered under Section 75 of the Consumer Credit Act 1974 (section 75) given the likely value of each item purchased.

Unhappy with Nationwide's decision to decline the dispute, Mr K referred the case to this service. One of our investigators considered the case and didn't think Nationwide had acted unfairly. The investigator agreed there was no valid chargeback reason and that the dispute didn't meet the criteria for a valid section 75 claim.

Mr K didn't agree with our investigator's view and reiterated that he believed the claim should be successful. As no agreement could be reached his complaint has been passed to me for review and 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 think it would be helpful for me to be clear here that I am only considering the actions of Nationwide in this case, and I can't consider the actions of the restaurant.

The transaction Mr K disputed was made using a credit card and he paid the restaurant directly. This means Nationwide had the option to consider the claim through the chargeback process or under section 75 of the Consumer Credit Act 1974 (section 75). So, I've considered both here.

### *Chargeback claims*

Chargeback isn't a legal right and isn't guaranteed to get a customer a refund. That said it's good practice for a credit provider to attempt a chargeback where the circumstances are appropriate and there is a reasonable prospect of success. Strict rules apply to chargebacks, and these are set out by the card scheme operator, in this case VISA. These rules include timeframes and specific criteria for chargebacks to be raised, and details of what evidence is needed for the claim.

Mr K has complained that the food was cold, and he felt unwell the next day. So, the most relevant chargeback rule would have been that the merchandise or service wasn't as described or was defective. However, there are exclusions to this chargeback meaning certain types of disputes would be considered invalid. This includes disputes about the quality of food received from eating places or restaurants.

Given the type of dispute being raised by Mr K would have been invalid under the relevant chargeback rule, I don't think the claim would have had a reasonable prospect of success. So, I don't think Nationwide have treated Mr K unfairly in deciding not to pursue the chargeback claim further.

### *Section 75 Claims*

Section 75 makes the provider of credit (Nationwide in this case) equally liable where there is a misrepresentation or breach of contract by the supplier of goods or services financed by the credit. However, it will only apply when the criteria for a Section 75 claim are met. This includes the need for the cash price of each item disputed to be more than £100, and £30,000 or less. In addition to this Section 75 will only apply when there is a direct relationship between the debtor, creditor, and supplier otherwise known as a DCS agreement.

In this case it's not disputed that there is the necessary DCS agreement. However, I must also consider the cash price of the items purchased and whether these meet the criteria for a Section 75 claim.

Mr K has provided a receipt that shows the total cost of the meal was \$255.45 or £236.93 and so he feels the transaction meets the criteria for a successful section 75 claim. Nationwide argued that for a meal in a restaurant for four people costing around £230, it was unlikely that the individual dishes ordered would cost more than £100. So, it asked Mr K for an itemised bill, but he was unable to provide this. Given this, Nationwide declined Mr K's section 75 claim.

I've considered the evidence carefully and having done so, I'm not persuaded that Mr K has shown that the claim met the criteria for section 75. I say this because although the total bill came to more than £100, it's clear from Mr K's testimony that four people were dining and so more than one meal was purchased. I haven't seen any evidence which would suggest one dish or drink cost more than £100. Mr K also hasn't demonstrated that the items purchased formed part of a set that cost more than £100 and couldn't be purchased separately.

Given this, I think Mr K is more likely than not disputing more than one item, and for there to be a valid section 75 claim each item would need to have a cash price of more than £100. But, on the evidence available, I'm not satisfied that the cash price of the items purchased exceeded £100. So, it follows that I'm not persuaded there was a valid section 75 claim here.

Further to this, I can't see that Mr K was able to provide any evidence aside from his testimony that the food was cold on arrival or that it was the food that made him and his party ill the following day. Whilst I don't doubt Mr K and his party were unwell, his testimony

isn't sufficient to demonstrate that they became unwell as a direct consequence of the food provided by that restaurant. So, even if Mr K could prove that the cash price of any item was more than £100, I'm not satisfied there's enough evidence to demonstrate that there was a breach of contract or misrepresentation in this case. This means even if there was a valid section 75 claim (which I don't think there is) it would more likely than not fail.

I'm sorry to disappoint Mr K but, on the evidence available, I can't reasonably conclude that Nationwide has treated Mr K unfairly in its consideration of his section 75 claim.

### **My final decision**

My final decision is that I don't uphold Mr K's complaint about Nationwide Building Society for the reasons I've set out.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 17 September 2025.

Charlotte Roberts  
**Ombudsman**