

The complaint

Mr B complains about how NATIONAL WESTMINSTER BANK PUBLIC LIMITED COMPANY ('NW') handled a dispute he raised with it.

What happened

The parties are familiar with the background details of this complaint – so I will briefly summarise them here. It reflects my role resolving disputes with minimum formality.

Mr B says that a supplier of health services ('M') took four payments of £110 from his NW credit card which it should not have (in July, August, September and October 2024). He says that he approached NW to raise a dispute but it didn't do enough to help him with this.

Mr B says that NW's actions were particularly impactful for him as he is disabled. And he complained to NW about his experience.

NW did not accept it had done anything wrong. It noted that Mr B had authorised the transactions to M, and that he had been reimbursed for three payments anyway. It said that if Mr B needed extra help and support in the future he was able to record this in various ways.

Mr B referred the matter to this service. He accepts that he eventually got three of the later disputed payments back totalling £330. But he wants NW to pay him for the first one from July 2024 – as although he received a service – he says this related to an incorrect prescription. And he wants compensation for NW's failure to support him appropriately with the claim in the first place.

Our investigator did not uphold the complaint. So Mr B has asked for an ombudsman to take a look and make a final decision.

I issued a provisional decision on this case which said:

What I've provisionally 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.

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 with minimum formality.

In considering what is fair and reasonable, I need to have regard to the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and (where appropriate) what I consider to have been good industry practice at the relevant time. This includes the FCA 'Consumer Duty'.

I have noted Mr B's detailed testimony as to why NW's actions were particularly difficult for him due to circumstances around his health. I thank Mr B for sharing this

information as it is useful in helping me to understand how things have impacted him. I will come to focus more on this later in my decision – but firstly I am going to look at how the dispute was handled more generally. As I think that NW has made mistakes and not treated Mr B fairly in any event.

Unauthorised transactions

I think it is useful to deal with this point firstly so I can then focus on what I consider is the relevant and fair course of action NW should have taken here.

It appears Mr B has alleged that the payments from M were ‘unauthorised’ both in his complaint to NW and his complaint form to this service. But I don’t think that is correct nor do I consider it something NW should have concluded.

Based on the information NW had in the online claim form which Mr B filled out, and what information would have come to light had NW looked into things more – it would appear this is not a claim in respect of unauthorised payments. Instead it is clearly a claim essentially about the supplier’s alleged failure to honour a cancellation request for a health subscription service.

To underline this Mr B in the dispute form selects the dispute reason ‘*I cancelled a recurring transaction*’. Furthermore, Mr B does not appear to dispute that he did agree to sign up to a subscription health service with M. And there is email evidence to show that he was liaising with it for some time about his health and the service it provides. Therefore, I wouldn’t have expected NW to have approached the claim as a fraud or scam.

However, my conclusions here do not mean that NW could not have assisted Mr B through other means. Namely raising a dispute in respect of chargeback and/or Section 75 of the Consumer Credit Act 1974 (‘Section 75’). I will move onto this now.

Chargeback and Section 75

In deciding if NW has acted fairly I am looking at its role as a provider of financial services. In that respect I consider that Section 75 and the chargeback scheme are particularly relevant here as they provide ways it can assist with the dispute Mr B had with M.

From what I understand (and from looking at NW’s system notes) Mr B filled in the online dispute form and submitted it to NW on 16 September 2024. I have seen a copy of the information received from the online dispute form and it is fairly basic. The indication is essentially that the supplier didn’t honour a cancellation request.

NW could have looked into raising a chargeback in respect of a cancelled recurring transaction here. However, instead of doing this it appears that NW wrote back to Mr B on 21 October 2024 to say it wasn’t taking his chargeback further. The letter refers to ‘potentially fraudulent’ claims. NW has explained to us the reason it declined to take the chargeback further is:

‘due to Mr B meeting the velocity for the number of reported disputes in a short period of time (exceeded our trigger)’

This explanation is corroborated by its system notes which refer to Mr B having ‘*exceeded the trigger*’ in respect of raising disputes. Overall, my impression here is that NW didn’t raise the chargeback because Mr B had raised a certain amount of

prior chargebacks in a certain timeframe. But that in itself is not a basis for saying that this particular chargeback is invalid, frivolous or potentially fraudulent. Without further investigation into the nature of this chargeback I am not sure how NW could have made an informed decision about it.

I accept that Mr B did not send over a lot of detail about his dispute initially but I am satisfied this is more of a limitation of NW's dispute form rather than down to Mr B withholding information. Mr B has said that the form didn't allow him to submit more detailed submissions or attachments of any kind – and that does seem to be the case here.

So I think that NW should have reached out to Mr B to seek more information about the nature of the individual claim before making a decision on how to deal with it. As Mr B appears to have had limited paperwork showing the agreement with the supplier or that he had cancelled the service at the time he raised the claim I think NW should fairly have encouraged him to reach out to the supplier to try and resolve things and get more information first. This wouldn't have been an unreasonable first step to take. And I think this would have likely ended up resolving the claim in respect of the transactions Mr B has indicated were taken after he cancelled – noting that when Mr B did reach out to the supplier on 16 and 21 October 2024 it agreed to refund him the last three payments he made to it (albeit for apparently other reasons than him previously cancelling the service). These refunds were processed on 22 October 2024.

I don't consider NW's error has likely caused Mr B to get this money back later than he ended up getting it here. Noting that Mr B didn't have compelling evidence that he had cancelled the service prior to contacting NW so I wouldn't have expected it to have raised a chargeback immediately. However, I do think NW caused Mr B unnecessary distress and inconvenience by refusing to deal with his claim outright. Which I will say more about later.

Mr B has also said to this service that he is due back his July 2024 subscription payment as well as although he received services these were not as they should have been. Namely he was given the incorrect prescription. This sort of thing NW could have better considered under Section 75. In brief, this allows Mr B to make a claim against NW for a breach of contract or misrepresentation in respect of goods or services paid for using his credit card. Certain technical criteria needs to be in place in order for Section 75 to apply (which I consider is in place here) so the claim here would appear to hinge on whether there was evidence reasonably available at the time to NW to show a breach or misrepresentation by the supplier.

NW said it would have looked into Section 75 if Mr B had provided more information. I accept that Mr B didn't appear to mention this upfront. But as I have already said – its online form seemed to be limited in this respect. Had NW reached out to Mr B it seems he would likely have mentioned this too.

However, while the lack of engagement by NW regarding a Section 75 claim would be frustrating I am not persuaded that NW should have upheld a Section 75 claim based on the information likely available to it at the time in any event. I will explain.

Mr B's claim essentially centres around advice he was given by the supplier in relation to the dosage of a prescribed cream. Mr B says the advice for two pumps rather than one was incorrect. There doesn't appear to be evidence of any express contractual terms around this sort of thing except the prescription saying 'as directed by your doctor'. So the claim would appear to be reliant on any implied terms in consumer law.

Here I consider the Consumer Rights Act 2015 ('CRA') to be of particular relevance in considering any implied terms.

The CRA implies terms into consumer contracts to say that services will be provided with reasonable 'care and skill'. While there is no specific definition of reasonable care and skill – of particular relevance will be what is considered good practice in the particular industry in question.

The difficulty here is Mr B has purchased a complex medical product where specific expert knowledge is necessary to understand it. I am not an expert in this area (nor is NW) and without an expert report that explains what has gone wrong here and why or some other similarly persuasive evidence it is difficult to fairly conclude that the treatment wasn't carried out properly and that Mr B is due a refund for the cream he received.

In summary, I consider that NW failed to properly consider both the Section 75 and chargeback claim for Mr B. And while I don't think this has led to a likely financial loss (or fees or adverse information Mr B would otherwise have avoided) I think it impacted him in a way that NW should put right.

Additional considerations

Mr B has complained that compounding the impact on him is NW has failed to accommodate his specific vulnerabilities as a disabled person. In other words, NW has failed their duty to make reasonable adjustments under the Equality Act 2010, amongst other things. The Equality Act 2010 is relevant law so I have taken it into account here – but I've ultimately decided this complaint based on what's fair and reasonable. If Mr B wanted a decision that NW has breached the Equality Act 2010, then he would have to go to Court.

My starting point here is that the way NW responded to Mr B's claim would be frustrating for anyone. Not only was it acting unfairly in not reaching out for more information – but it took over a month to communicate it's decision to close the claim when its acknowledgment email said that there would be an update in '10 working days'. I don't see persuasive evidence that this update occurred when NW promised.

However, I am also persuaded the individual impact on Mr B was even greater because of his specific vulnerabilities – whether NW were aware of these or not. Mr B has described how he faces challenges in managing financial matters due to forgetfulness and cognitive limitations. And that this leads to concerns around his ability to meet financial commitments. He says that he also has significant difficulty with verbal communication and therefore he requires all communication to be in writing only.

To not hear from NW for weeks about his claim (especially when it acknowledged it would be in touch sooner) would no doubt have caused him a great deal of worry. Furthermore, to get a letter saying that the claim was not being taken further due to potential fraud would be particularly upsetting, noting that Mr B was not simply able

to pick up the phone to call and clarify things in the moment. In fact the template of the letter NW has shown which it said it sent to Mr B doesn't appear to feature any specific information about how Mr B can get in touch to dispute the decision in writing or otherwise. This would have no doubt been very frustrating for Mr B, particularly noting what he has told us about his condition.

I am aware Mr B had an email address for NW on his records already in relation to other disputes he had raised. And which he tried to use to chase up the claim progress. However, NW didn't give it to him in respect of this claim – and Mr B didn't get a response from it in any event. So I don't think it would be fair to say this mitigated the impact of NW's poor handling of the matter in question.

NW in its Final Response to Mr B's complaint said it was sorry to hear the issues with the claim caused him extra worry when he already has health issues he is dealing with. And says:

I understand this will not help with the matters discussed above, however in future we can offer extra help and support if you need it through our Banking My Way service.

From reading this it appears NW is suggesting it didn't know anything about Mr B's particular needs prior to his claim. However, Mr B has provided credible testimony that he made NW aware of his vulnerability previously – and has supported this with previous correspondence to NW from March 2020 and March 2023 where either he mentions to NW that he has a disability or it acknowledges the same. At one stage he says it is a 'longstanding' disability. And while I can't see that Mr B logged specific requests for adjustments at this time – I can see that in November 2024 he writes to say he cannot engage in discussion over the phone – and that this has been '*communicated to you on several occasions*'. While this is after the claim was raised – it does suggest Mr B had already told NW about his specific communication preferences. I accept that it isn't entirely clear what NW knew about Mr B's specific preferences prior to the claim being raised. But at the very least I consider it would have reasonably been aware it was dealing with a vulnerable person. So I think this is fairly an aggravating factor in my consideration of how it responded to his claim. And has clearly caused Mr B additional frustration.

Putting things right

I've thought about our service's approach to awards for distress and inconvenience, details of which are published on our website.

Making awards for distress and inconvenience is not a science. However, I consider that NW's error here in the way it handled the claim has caused Mr B more than the level of frustration and annoyance he might have reasonably expected from day to day life. And while it did not go on for a lengthy period – it has caused him considerable distress, upset and worry. Noting, in particular, the additional factors I have mentioned above here around his vulnerability and NW's likely knowledge of this.

All in all I think an award of £400 is fair and reasonable to reflect the distress and inconvenience caused to Mr B. I know Mr B has indicated that he would be expecting a lot more compensation here. However, he does not have to accept my decision and is free to reject it and pursue this matter via other avenues (such as court) should he wish to do so.

My provisional decision

I uphold this complaint and direct NATIONAL WESTMINSTER BANK PUBLIC LIMITED COMPANY to pay Mr B £400 compensation for distress and inconvenience caused by its claims handling.

I asked the parties for their responses. Both parties agreed with my 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.

As both parties have agreed with my decision I see no reason to change it. My final decision is the same for the reasons already given (as copied above).

Putting things right

See below.

My final decision

I uphold this complaint and direct NATIONAL WESTMINSTER BANK PUBLIC LIMITED COMPANY to pay Mr B £400 compensation for distress and inconvenience caused by its claims handling.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 1 October 2025.

Mark Lancod
Ombudsman