

The complaint

Ms S has complained that Nationwide Building Society “NBS” declined her claim for money back in relation to a fee she paid to a property agent using her credit card.

What happened

All parties are familiar with the facts of this case so I will only set out a summary. On 21 May 2025, Ms S paid £250 using her NBS credit card to a supplier (who I’ll refer to as E). This was to commence instructions for E to act for her, including file set up, and a guarantee. On 23 May 2025, Ms S tried to cancel her agreement with E, as she wasn’t happy with the solicitor allocated to her file. But E explained the fee was non-refundable.

Ms S complained that she was well within her 14-day cooling off period so thought she should be able to cancel and get a refund. E explained that it had provided a copy of the terms and conditions of its service which Ms S confirmed she’d accepted and in line with its terms, she has waived her rights to a cooling off period by paying the fee.

When E refused a refund, Ms S contacted NBS to make a claim under section 75 of the Consumer Credit Act 1974 (section 75). She reiterated that she was entitled to a cooling off period under the Consumer Contracts Regulation 2013 (CCR) as the contract had been concluded on the phone and she didn’t know that by paying the fee she’d be losing her right to a cooling off period.

NBS considered both a claim under the chargeback rules and a claim under section 75. It said the merchants terms shows she wasn’t entitled to a refund so her chargeback claim had no reasonable prospect of success. Ms S’s section 75 claim was declined because E showed it that it had provided a copy of its terms prior to Ms S instructing them via email which said she would lose her right to a cooling off period if she paid the fee. E also informed NBS that Ms S had confirmed she’d accepted the terms on a phone call when she clarified a number of issues in relation to the service on offer. So NBS didn’t feel there was evidence of a breach of contract.

Unhappy Ms S referred her complaint to this service. She reiterated her concerns that she hadn’t known to click on the hyperlink related to the terms so hadn’t read them. Ms S’s complaint was considered by one of our investigators. They also agreed that there was insufficient evidence to show that there has been a breach of contract or that she was misled about the fee. They said the terms had been sent to her via email, and Ms S had called to clarify a number of issues in relation to the guarantee on offer. She was also encouraged to delay paying the fee until her survey was completed but Ms S said she wanted the other party on the property sale to know she had solicitors so wanted to instruct them immediately. So, they didn’t think even if the no refund policy had been further highlighted during the call that Ms S would have acted differently in any event.

Ms S reiterated that she hadn’t clicked on the hyperlink and hadn’t read the terms and she wouldn’t have paid the fee had she known she was losing her right to a cooling off period. She said the sellers solicitors had withdrawn from the sale when they discovered who her solicitors were as they felt her solicitors would delay the sale. She said she only saw the

terms after she tried to cancel. She felt the guarantee is irrelevant as she never plans on using the services of E again.

Our investigator's view remain unchanged and as the complaint couldn't be resolved, the complaint has been passed to me to make 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.

Firstly, I'd like to reassure Ms S, that I have considered all her concerns carefully, but I will only be dealing with the most salient parts of this complaint in this decision as I'm required to decide matters quickly and with minimum formality.

Whenever a consumer makes a claim for money back from their bank, businesses like NBS have two potential ways to retrieve money back for consumers. A claim under chargeback and a claim under section 75. I will initially look at Ms S's claim under the chargeback process.

Chargeback

Under the chargeback process, NBS is able to ask for a refund directly from E under specific circumstances through the VISA chargeback scheme. There are various reason codes that can be used. NBS's role is to ensure the facts and evidence submitted are enough for it to request a refund on Ms S's behalf under a specific reason code.

It's important to note that not all disputes are captured by the chargeback rules. Some disputes simply do not entitle a consumer to request a refund through the chargeback scheme. Common reasons that enable financial businesses to request a refund include goods/services not being provided or being defective. Another reason code is if the merchant fails to credit a consumer with a refund they are entitled to under the merchants terms. Based on Ms S's circumstances, NBS decided to not pursue the chargeback as it felt her claim didn't have a reasonable prospect of success.

The chargeback rules are prescriptive, and certain conditions need to be met before a request can be made. So, for a claim under refund not correctly processed, NBS would have to be satisfied that under E's rules, Ms S was entitled to a refund that was not given to her. But E's terms show that this was non-refundable.

I don't think NBS acted unfairly by coming to the conclusion that the dispute had no reasonable prospect of success under the chargeback scheme. It's important to bear in mind that when deciding how to proceed with a claim under the chargeback rules, NBS is deciding whether Ms S is entitled to a refund under the chargeback rules. And the chargeback rules specify this can only be used if Ms S can provide evidence that she is entitled to a refund usually under the merchants terms or a refund was promised to her and not given. So, when assessing these sorts of claims, the only thing to be considered are the facts and evidence available and what is written in the chargeback rules. The claims are not considered against the general law or other consumer protection rules and codes.

I appreciate why Ms S was so disappointed with the outcome of this claim but based on what I've seen, I don't think NBS has acted unreasonably or incorrectly. And I don't think Ms S has lost out because of anything NBS did/did not do.

Section 75

It may be helpful to explain that I need to consider whether NBS – as a provider of financial services – has acted fairly and reasonably in the way it handled Ms S's claim. Section 75 is a statutory protection that enables Ms S to make a 'like claim' against NBS for breach of contract or misrepresentation by a supplier because she paid for the goods using her NBS credit card. So, I need to consider whether, based on the available evidence, it was fair and reasonable for NBS to respond to her claim in the way that it did, and if not, if there's grounds for me to uphold Ms S's complaint and order a remedy.

There are certain conditions that need to be met for section 75 to apply such as financial limits. Neither party has disputed that those conditions have been met so I've assessed the case on the basis that the conditions have been met.

In order to uphold Ms S's section 75 claim on the basis that there has been a breach of contract, Ms S would need to evidence that E breached a term of the contract (either an express or implied term)– and that caused her to suffer loss. The Consumer Rights Act 2015 (CRA) implies terms into the contract that any services must be carried out exercising reasonable care and skill. The CRA also sets out what remedies are available to consumers if statutory rights under a goods or services contract are not met. Alternatively, Ms S would need to show she has been misled about the contract in some way, that she relied on this and this caused her to suffer loss. So, she'd need to show that E made a false statement of fact or law that she relied on to make a claim for misrepresentation.

I can see E did email a copy of its terms along with its quote. The terms and conditions section which included a hyperlink to its privacy policy and terms and conditions was under a separate heading highlighted with a bold subheading. E also explained that Ms S spoke with E on the phone following receipt of the quote to clarify her understanding of the service being offered and details of the guarantee. I can see details of the guarantee isn't mentioned in the body of the email which indicates Ms S must have accessed other information before she spoke with E. Additionally, during the call E's advisor explicitly suggests Ms S waits until her survey is completed before paying the fee but Ms S wanted to instruct E immediately as she wanted the other party to know she'd instructed solicitors. She also confirmed again on this call that she'd accepted the terms and conditions of service.

Based on the evidence provided to NBS, I don't think it was unreasonable for it to conclude that there isn't sufficient evidence of a breach of contract or misrepresentation in this case.

I appreciate Ms S believes that E's method of sending her the terms and conditions of the service is in breach of the CCR's while E feels its fully compliant. But I don't think it's clear that there has been a breach of the law and therefore E, cannot rely on its terms in the way Ms S believes, so I don't think it was unfair for NBS to decline this claim.

I would add that, as explained by our investigator, while Ms S now says she wouldn't have paid the fee had she understood she was waiving her cooling off rights, this isn't supported by the call she made with E which indicates she was under pressure to instruct solicitors. I understand Ms S's reasons for cancelling is related to the solicitor allocated to her file which happened after the fee was paid, the file was set up and the applicable guarantee was in place. As explained by our investigator, she wouldn't have known which solicitors would be allocated to her at the time she paid the fee, so even if E had further highlighted it, I'm also not persuaded she would have acted differently.

Overall, I don't think there are grounds for me to uphold Ms S's claim either under section 75 or chargeback. While I can see Ms S is very disappointed with the overall service received from E, I don't think she's demonstrated that there has been a breach of contract or

misrepresentation for which NBS is now liable to remedy. So, I don't think overall NBS has acted unfairly and find no grounds to uphold Ms S's complaint.

I should point out that Ms S doesn't have to accept this decision and if she rejects it, it will not be binding on her or NBS. She may then be able to pursue the matter by more formal means such as through the courts.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms S to accept or reject my decision before 30 April 2026.

Asma Begum

Ombudsman