

complaint

Mr G complains about a car he bought and which was partially funded through his National Westminster Bank Plc credit card. He says the car was misrepresented to him and he was not told it had been pre-registered.

background

The complaint was considered by one of our adjudicators, who recommended it be upheld. The bank agreed to take possession of the car and refund what Mr G had paid. The refund would be £500 to the credit card used for the purchase and the remaining £13,832 to Mr G's specified bank account.

Both Mr G and the bank accepted this. The bank arranged to collect the car and a refund was processed. Mr G is however unhappy about the settlement as he says the car was not collected when agreed and the settlement hasn't been paid as agreed. Although he has received the amount due, this has all been paid to his bank account and none has been paid to his credit card.

Mr G raised this with the adjudicator but the adjudicator felt that although the settlement was slightly different to initially agreed, it was not unreasonable overall. As Mr G remained unhappy with this an ombudsman then considered how the settlement had been made. She explained to Mr G that she also felt the overall settlement was fair.

As Mr G is still unhappy with this, the complaint has been referred to me as the final stage in our process so that a final decision can be issued.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I believe this final decision will come as further disappointment to Mr G. I have come to the same overall conclusions as the adjudicator, and previous ombudsman who considered the complaint.

As the bank has now accepted the adjudicator's initial findings about the way the car was sold and what Mr G was told, I don't think it necessary to restate those details again here. Both parties agreed that the bank would take possession of the car and Mr G would receive a refund of what he'd paid. The current outstanding issues are around how the settlement was completed and that is what I have focused on here.

the settlement offered and agreed

After discussions with the bank the adjudicator set out to Mr G what had been proposed to settle the complaint. Mr G signed our settlement form on 20 February 2015 and also emailed the adjudicator the same day confirming his acceptance. The email reiterated what Mr G was willing to accept, which was:

- *a refund of the total value of the purchase of £14,332.00, split as follows:
£500.00 as a refund to my NatWest credit card
£13,832.00 as a bank transfer to my nominated bank account*
- *a refund of interest applied to the transaction on the credit card because of the deposit*

Mr G also requested that the refunds be processed promptly once the car had been collected.

collection of the car

Mr G is unhappy about the way the car was collected and says it was not collected on the day agreed with the bank. He says he is 'out of pocket' for a day's leave as he had to wait around all day for the collection agent. He's also referred to fuel costs as he had to drive to meet the collection agent.

The bank accepts there was an issue on the day of collection as the agent's vehicle broke down before it reached Mr G's house. However, the bank says it was told by the collection agent that its vehicle only broke down approximately 100 metres from Mr G's house. The agent says it was told by Mr G that he was working from home that day and he walked to the agent with the car keys and registration documents.

I accept the collection didn't go as it had initially intended and it was unfortunate that the recovery vehicle broke down. However, this appears to have been very close to Mr G's house and he was able to hand over the keys and documents without any real inconvenience. This may have been later in the day but if Mr G was working from home that day there would be no need for him to have taken annual leave.

Although the car wasn't physically removed until the next day, as the keys and registration documents were handed over on the agreed day I am satisfied possession or ownership of the car took place on the agreed day. Overall, I do not think there were any unreasonable delays in the bank collecting the car after it was told Mr G had accepted the settlement.

the refund

There is no dispute the bank paid all of the refund to the account details provided by Mr G, rather than paying £500 of the refund to the credit card account. The bank says it was unable to pay £500 to the credit card account as it had a zero balance. Adding £500 to the credit card would therefore result in the credit card having a credit balance, which is not what a credit card is intended for.

Mr G says that he specifically wanted £500 paid to his credit card as he wanted to use his credit card for the deposit on his new car for the protection it offered. He says the deposit for the new car was more than his credit limit on his credit card and he has now been prevented from being able to purchase the replacement car.

Although the £500 was not paid to the credit card I am not persuaded this has adversely affected Mr G or prevented him from purchasing a new car. Mr G says he wanted to use the credit card for the deposit so he benefitted from the protection it offered. Had Mr G paid £500 using his credit card, like the original car purchase, he could have then claimed under Section 75 of the Consumer Credit Act, which is the 'protection' Mr G has referred to.

Mr G also says the deposit amount required on his new car was more than the credit limit on his credit card and he therefore planned to use the £500 to pay the higher deposit. When buying a new or replacement car, dealerships are generally very flexible about how a deposit can be paid. I accept there may be a minimum deposit required, depending on the overall

cost of the car. However, dealerships will usually accept a variety of payment methods, or combination of methods, when a deposit is being paid.

I consider it unlikely that the dealership Mr G was looking to buy a car from would insist on the full deposit being paid by credit card. It's also likely that a percentage fee is applied for credit card payments for car deposits, which again suggests to me a dealership wouldn't insist on a set amount being paid solely by credit card. Some of the payment could have therefore been made on Mr G's credit card and any remaining amount, which could include the £500 not paid to the credit card, could have been paid in cash or by debit card.

While I've noted what Mr G has said about being prevented from purchasing a replacement car, I consider this is unlikely to be the case. The refund was paid within a reasonable time and from the information presented in this complaint I see no reason why Mr G could not have purchased a new car immediately after he received the refund from the bank. The bank paying the full refund to his bank account has not in my view prevented him from making a purchase. Mr G has arguably benefitted from the full refund being paid to his bank as interest could then be paid on the full, higher, amount.

Mr G has referred to incurring additional costs as a result of the settlement not being paid as agreed. However, as I have found the bank hasn't prevented him from making a purchase I think it would be unreasonable to expect the bank to be responsible for any costs he has incurred.

Overall, I note Mr G's disappointment about how the settlement was completed and that it wasn't as initially agreed. However, the impact of this was minimal and has not in my view prevented Mr G from buying a new car using a combination of his credit card and any other means he intended. Mr G may have incurred additional costs after the settlement was paid but these are not as a result of the bank's actions. They are therefore not something I think the bank should be liable for.

I appreciate Mr G will remain unhappy with the outcome I have set out here. This final decision is however the last stage in our process and should he wish to continue his dispute with the bank he will need to do so through other means.

my final decision

My final decision is that I do not uphold this complaint and I make no award or direction against National Westminster Bank Plc. Under the rules of the Financial Ombudsman Service, I am required to ask Mr G to accept or reject my decision before 19 May 2015.

Mark Hollands
ombudsman