

The complaint

Mrs W has complained that Bank of Scotland plc, trading as Halifax, has declined her section 75 claim in respect of a holiday.

What happened

Mrs W booked a package holiday through a third party, which I will call 'J', and paid the deposit using her Halifax credit card. Unfortunately, her son and other members of the party fell ill during the holiday.

Mrs W and her party had arrived at the hotel late on 4 August. On 7 August, her son developed diarrhoea. By the next day, her husband also had diarrhoea and her daughter had nausea. By 9 August, her son was admitted to hospital, and her husband stayed with him, as Mrs W had Covid. He was discharged on 11 August. By 12 August, Mrs W's husband and daughter had Covid, and both Mrs W and her son had diarrhoea. Her son's diarrhoea continued throughout the holiday and flight home, and he's been left with emotional scars. It was confirmed he had salmonella.

Mrs W brought a claim against Halifax under section 75 of the Consumer Credit Act 1974. However, Halifax declined it, on the basis that there wasn't evidence of a breach of contract or misrepresentation by J.

Unhappy with this, Mrs W brought her complaint to our service.

One of our investigators looked into what had happened, but didn't think Halifax had behaved unfairly. She explained why.

First, she looked at J's terms and conditions. These require proof that any illness was caused by a lack of reasonable care and skill by the hotel. J said it didn't accept the hotel had caused food poisoning. This was because it had met all health and safety requirements, and there was no direct evidence that illness was caused by food eaten at the hotel.

Our investigator took into account Mrs W's explanation that: there was poor hygiene, with cats in the restaurant area, which the staff handled; five of their party had diarrhoea and/or nausea; and her son had only eaten food from the hotel, falling ill three days after arrival. But she didn't think there was strong enough evidence that the hotel was responsible. She thought that it was more compelling that the hotel had met all health and safety guidelines. She also thought it relevant that not everyone fell ill, and those who did were poorly at different times.

Our investigator also considered Mrs W's assertion that J had breached its contract with her, by not agreeing to enter into the ABTA conciliation service. But she noted that this is voluntary, which is clear on the website, so there's no obligation for J to agree to it.

Finally, our investigator considered the Packaged Travel Regulations, which impose upon J an obligation to provide assistance if a traveller is having difficulty during their package holiday. But she was satisfied that in assisting with finding a doctor, the booking of taxis and

provision of plainer meals, J met its obligations. She also considered that J's adherence to all local health and safety regulations supports that the hotel supplied its services to the required standard.

As Mrs W disagreed, her complaint's been passed to me.

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.

Having done so, I agree with the conclusions reached by our investigator, and for the same reasons she gave. I've looked thoroughly at all of the submissions made, and thought about them carefully. But there is little that I can meaningfully add to the reasoning our investigator has given – which I adopt here.

I'm very sorry to hear about how poorly Mrs W's son was, and the effect it had on him. And I'm sorry other members of the group fell ill too. It's clear that what should have been a happy, enjoyable experience, was anything but. That said, for the reasons given, I don't think it was unreasonable of Halifax to decline Mrs W's claim.

My final decision

For the reasons given above, it's my final decision not to uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 8 April 2025.

Elspeth Wood
Ombudsman