

## The complaint

Mr L complains that Bank of Scotland plc trading as Halifax did not refund a series of payments he says he lost to a scam.

## What happened

Mr L contacted a company I'll call 'X' who helped set up an advertising campaign for his business that would generate leads for new customers. He signed up for three months at £1,200 per month and made the following payments from his Halifax current account:

Date	Amount	Type
12/06/2023	£600	Card payment
22/06/2023	£600	Transfer
28/07/2023	£1,200	Transfer
23/08/2023	£1,200	Card Payment

Mr L did not get the number of leads he had been guaranteed, so cancelled the service on 30 August 2023, prior to the end of the three months. He asked for a refund, but X refused and pointed to their terms and conditions which stated they did not provide refunds for their service. Mr L felt he had been scammed by X, as he felt a number of the leads they had generated were fake and he found a number of negative reviews online about them.

Mr L raised a chargeback claim with Halifax for the two card payments he made to X. Halifax processed this but explained to Mr L that in response to the £1,200 payment X had sent in evidence that he used the service and that the terms and conditions made it clear they did not provide refunds. Because of this, they did not agree to continue with the chargeback claim and re-debited the £1,200 from his account. However, X did not respond in time to the chargeback claim on the £600 payment, so Halifax did not re-debit this.

Mr L referred the complaint to our service and our Investigator looked into it. They felt that Halifax had processed the chargeback claims as they would have expected. For example, they thought the most appropriate chargeback code had been selected for the transactions, and that it was reasonable for Halifax not to continue to pursue the £1,200 claim considering the evidence X had provided.

The Investigator went on to consider the transfers, which cannot be raised under chargeback claims. They looked at whether or not the payments could be considered under the Lending Standards Board's Contingent Reimbursement Model ("CRM") Code, which gives additional payments to victims of authorised push payment ("APP") scams. However, the Investigator did not think the high bar of an APP scam had been met in the circumstances, and felt it was more likely a civil dispute between Mr L and X. So, they thought it was reasonable that Halifax did not reimburse Mr L.

Mr L responded and was unhappy with the outcome. He felt he had provided enough evidence that the leads X produced were fake. As an informal agreement could not be reached, the complaint has been passed to me for a final 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.

Having done so, I agree with the Investigator for largely the same reasons. I know this will come as a disappointment to Mr L, but I don't think Halifax needs to reimburse him in the circumstances.

### Chargeback claims

A chargeback is a voluntary process run by the card schemes, in this case Visa, and not the banks, and is there to resolve disputes between consumer and merchants. There is no guarantee of success should a chargeback claim be raised and while we would expect a bank to raise a chargeback claim if there was a reasonable chance of success, they are not required to raise one in every case.

A card issuer, in this case Halifax, will need to select the appropriate chargeback code relevant to the situation. There are set codes to choose from and I can see in this case Halifax selected '*Merchandise/Services not received*'. However, when Mr L appealed the declined chargeback claim, he said they should have selected '*Misrepresentation*' and this would have been more appropriate.

I can see the dispute reason under '*Merchandise/Services not received*' is:

*'The Cardholder participated in the transaction but the Cardholder or an authorized person did not receive the merchandise or services because the Merchant ... was unwilling or unable to provide the merchandise or services.'*

And the dispute reason under '*Misrepresentation*' is: '*The Cardholder claims that the terms of sale were misrepresented by the Merchant.*'

On balance, I think both of these dispute reasons could be relevant to Mr L's claim as he has both said X did not actually provide the service he had paid them for, and that they had told him they could guarantee a certain amount of leads when this was not true. However, I can see that under the chargeback code of services not received, the dispute amount is limited to the portion of services not received. However, under the misrepresentation option, only the unused portion of the cancelled service could be claimed for. With this in mind, as Mr L stood to potentially gain more under the '*Merchandise/Services not received*' chargeback code, I think Halifax selected the most appropriate option.

The initial stage of the chargeback process is for Halifax to raise a chargeback claim if they think they have a reasonable chance of success. At this stage, Halifax provided a temporary refund of the £600 and £1,200 transactions to Mr L and the claim was passed onto the merchant's bank. In the case of the £600 transaction, the merchant's bank did not respond within the 45-day timescale, so Mr L was able to keep this temporary refund. However, the merchant's bank did respond to the £1,200 claim and defended the claim.

The merchant's bank responded with a significant amount of information, including evidence of the leads that were produced, the amount of times Mr L logged onto the platform, the terms and conditions that showed no refunds would be provided and the communications between X and Mr L.

I do appreciate Mr L's comments that he feels the majority of the leads were fake and individuals he contacted said they had never even filled out the form. And he has provided

an e-mail in which he was told X would guarantee a set amount of leads in the three months or he could receive a refund. So, I do understand why Mr L feels he has not received the service he paid for.

However, considering the significant amount of information provided by the merchant, I don't think it is clear cut that Mr L did not receive the service he paid for. And while Mr L does appear to have been told by X he could receive a refund if he did not receive the set leads within the three months, I can see he cancelled the service prior to the end of the three months. So, it is difficult to agree that he therefore would not have received the service in the allotted time had he continued, and the terms and conditions he agreed to also state X cannot guarantee results and do not provide refunds. All of this means I don't think Halifax could be confident that the chargeback claim would succeed at arbitration, which is where the card scheme, in this case Visa, decides who wins.

I therefore think it was reasonable for Halifax not to pursue the chargeback claim further considering the information received by the merchant. So, I think they acted fairly when they re-debited the £1,200 from Mr L's account.

### Faster payments

Mr L sent two faster payments of £600 and £1,200 and these transactions fall under the CRM code. Under the CRM Code, the starting principle is that a firm should reimburse a customer who is the victim of an APP scam (except in limited circumstances). But the CRM Code only applies if the definition of an APP scam, as set out in it, is met. I have set this definition out below:

*...a transfer of funds executed across Faster Payments...where:*

- (i) The Customer intended to transfer funds to another person, but was instead deceived into transferring the funds to a different person; or*
- (ii) The Customer transferred funds to another person for what they believed were legitimate purposes but which were in fact fraudulent.*

The CRM Code is also explicit that it doesn't apply to private civil disputes. The wording in the code is as follows:

*"This Code does not apply to:*

*b) private civil disputes, such as where a Customer has paid a legitimate supplier for goods, services, or digital content but has not received them, they are defective in some way, or the Customer is otherwise dissatisfied with the supplier."*

I've therefore considered whether the payments Mr L made to X fall under the scope of an APP scam as set out above. Having done so, I don't agree that it does. I'll explain why in more detail.

On balance, while I appreciate Mr L's strength of feeling that X has misled him and provided false leads, I think it's more likely they are a legitimate supplier who he is unhappy with. And this would therefore meet the definition of a civil dispute and not a scam.

I say this because X are active on Companies House and have been since 2021. They still have an active website that appears to be professional, and they engaged in the chargeback process heavily. These are not generally the actions of scammers and instead they indicate that X was acting as a legitimate company.

I understand that Mr L is unhappy with the quality of the service he received, and he feels he did not receive enough leads, and the majority of what he did get did not turn into jobs for him. But I don't think this therefore means X took his money with no intention of ever providing a service to him. From the evidence supplied by the merchant on the chargeback claim, I can see there was a significant amount of correspondence between Mr L and X. So while they may not have provided the leads he was expecting, I cannot agree that they did not provide him any service at all.

I know this is frustrating for Mr L and I can understand why. But I just don't think I've seen enough for me to be satisfied X acted with malicious intent from the outset. On balance, I think it is more likely they are a legitimate company who has not provided the service Mr L expected or felt he deserved. Because of this, I think Halifax correctly identified this as a civil dispute and therefore not one they would get involved in further.

Based on the evidence provided, I think Halifax acted reasonable when it did not reimburse Mr L with the faster payments.

### **My final decision**

I do not uphold Mr L's complaint against that Bank of Scotland plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 28 February 2025.

Rebecca Norris  
**Ombudsman**