

The complaint

Mr A complains about the way Bank of Scotland plc trading as Halifax responded to a claim for the cost of a course, he partly paid for using his credit card.

What happened

At the end of March 2023 Mr A paid a deposit of £250 using his Halifax credit card to a supplier I'll call O. This was a part payment for Mr A's adult son to complete a vocational course. Mr A says he transferred the remaining balance of around £5,000 to his son and this was paid to O from his account.

Mr A has explained the course was due to be completed between January 2024 and March 2024. However, O ceased to trade in March 2024 and went into voluntary liquidation in April 2024. As a result, Mr A's son was unable to complete an exam to obtain qualified status and there was no electronic record of the progress that was made towards a portfolio, which needed to be completed to sit the exam. Mr A also complains that his son wasn't provided mentoring support during the course.

The liquidators sent an email explaining what options were available including asking for a refund under Section 75, raising a chargeback claim or if these weren't successful, recording a proof of debt claim with the liquidators. It also explained what options were available to complete the course, including additional payments required.

Mr A submitted a claim under Section 75 of the Consumer Credit Act 1974 "Section 75" for the cost of the course and consequential losses. After sending the invoice and email from the liquidators, Halifax declined the claim. It explained that as the invoice was in Mr A's son's name there was no valid claim. Mr A was unhappy with this and complained to Halifax.

Halifax issued a final response letter to Mr A and explained in order to raise a valid Section 75 claim there are certain requirements, including the cash value of the claim, that the contract must be in the cardholder's name, and they must also be the beneficiary of the claim. It reiterated that as the contract was in Mr A's son's name, the relevant conditions for a Section 75 to be considered didn't apply.

Mr A referred his complaint to the Financial Ombudsman. Our investigator considered the complaint and didn't uphold it. He agreed that the claim didn't have the relationship required between Mr A and O for a Section 75 claim to be made. Additionally, he also considered if Halifax could have made a chargeback claim and found that even if it did, it's unlikely this would have succeeded.

Mr A disagreed and said that he thought Section 75 did apply as he paid for the course as a gift for his son. 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.

I've considered the evidence provided by both parties. I have focussed on what I consider to be the key points. If I don't comment on a specific point this is not intended as a discourtesy – it simply reflects the informal nature of this service.

I'm considering Halifax's responsibilities as the financial services provider and the actions it took in considering the request for a refund. It's important to note, I'm not considering a complaint against O. I've considered what statutory protections are available alongside other methods Halifax may have been able to explore to try and help Mr A with getting his money back.

Where a payment, or part payment has been made using a credit card, Halifax can consider reviewing a claim under Section 75 or raising a chargeback.

Section 75

Section 75 gives the account holder (the "debtor") the right to make a like claim against their credit card provider for breaches of contract or misrepresentations by a supplier of goods and services. But certain conditions must have been met including the debtor-creditor-supplier (DCS) agreement that our investigator highlighted. I'm satisfied these transactions fall within the financial limits. But where there are additional parties, this can affect the DCS agreement.

The debtor in this case is Mr A because he used his credit card to pay a deposit for the course. The creditor was Halifax as the card provider. The payment by credit card was for a vocational course provided by the supplier O. But Section 75 says that the debtor also needs to have a claim against the supplier. In order to make such a claim Mr A needed to be party to the contract with O.

Mr A has said that he paid the deposit using his Halifax credit card as a gift for his son which would mean that it meets the requirement for a Section 75 claim. Although Mr A may have paid the deposit as a way of ensuring financial protection for the claim, I'm not satisfied that by doing so he has demonstrated he is the contracting party for this type of claim.

I can see the paperwork that Mr A has supplied is all in his son's name. It's a shame we don't have the contract or the terms and conditions but based on what we've seen I think it's likely that even if were provided a separate contract, it's likely that this would have also been in Mr A's son's name. Additionally, it seems like Mr A's son paid the remaining amount to O by bank transfer and the email about the liquidation of O was sent to Mr A's son.

So, although Mr A may have provided the funds to pay for the course – because his son wasn't financially independent, as his name isn't on any of the paperwork supplied, I think it's more likely that Mr A's son was the contracting party. I can see Halifax asked for relevant information on a number of occasions from Mr A but as he provided limited information, I think Halifax's position on the DCS agreement was fair. Therefore, Halifax didn't act unfairly when it declined to consider the Section 75 claim or the consequential losses as a result of O ceasing trading.

Chargeback

Chargeback is based on the relevant card scheme rules. In this case it's the Mastercard scheme rules. A card issuer can attempt a chargeback on behalf of a cardholder where they dispute a transaction with a merchant, if they meet the criteria of the rules. It is also limited to

the payment or part of the payment amount. A chargeback is not guaranteed to succeed and a card issuer does not have to raise one.

However, it would be considered good practice to pursue a chargeback where there is a reasonable prospect of success. Although not all circumstances where something has gone wrong with the merchant, will mean the claim is successful.

Halifax didn't raise a chargeback. However, I think Mr A provided sufficient information in his response to emails about the Section 75 claim for it to consider if a chargeback claim would be successful.

Based on the information provided Halifax may have been able to consider raising a chargeback claim under the reason code – goods and services not provided. I say this as Mr A's son received an email from the liquidators explaining that O had ceased trading and was unable to fulfil the course, which also detailed the option to raise a chargeback. Halifax may have considered a chargeback and decided not to pursue this, but I've thought about what might have happened if it did.

I've thought about what requirements the chargeback condition had for interruption of ongoing services and it details that the issuer must only charge back an amount representing the services not received by the cardholder. When an end date is not defined, then the issuer must calculate the prorated amount based upon 18 months.

Halifax asked Mr A to supply information, which I think was relevant for raising a successful claim. It asked for things like:

- Written confirmation of the full nature of the claim, detailing the circumstances surrounding the claim (including, evidence to have attempted to resolve the matter with the merchant.)
- Copy of any written and email correspondence with the merchant.
- Proof of payment for the additional payment.
- Copy of invoice or contract, together with the terms and conditions of the original course and payment to subsequent course provider.
- Copy of the Liquidators/Administrators letter, if the company is no longer trading.
- Copy of cancellation notice.
- Any evidence to show the opportunity to have continued with the course via another provider.

I've considered Halifax would only likely have been able to claim a portion back of the £250 - nowhere near what Mr A wanted as a refund. Even had Halifax proceeded with a chargeback, it would have found it difficult to determine the portion of the cost of the course Mr A's son completed due to the lack of evidence. The chargeback scheme also doesn't cover consequential losses Mr A was seeking. Furthermore, it's not clear what the liquidators would have responded with.

I think there were evidential challenges with the information Mr A provided to submit a successful chargeback as he didn't respond with much of the supporting evidence Halifax asked for. Based on the information available I think on balance Halifax would have been unlikely to have raised a chargeback with reasonable prospect of success, so I don't think it acted unfairly by not doing so.

It's unfortunate that O ceased trading before Mr A's son was able to complete his course and I'm sympathetic that Mr A and his son paid a lot of money for it, however I don't think Halifax acted unfairly in declining the Section 75 claim or that it needed to do more in considering Mr A's request for a refund.

My final decision

For the reasons explained above, my final decision is that I do not uphold Mr A's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 21 April 2025.

Amina Rashid
Ombudsman