

The complaint

Mr M complains about how Bank of Scotland plc trading as Halifax handled a claim he made to it.

What happened

The parties are familiar with the background details of this complaint – so I will briefly summarise them here. It reflects my informal remit.

Mr M paid for a hire car from a booking website ('the supplier') using his Halifax credit card. The car was provided by a third party company ('the hire/rental company'). However, Mr M says that he wasn't able to collect the car. He says he turned up at the rental location and no one was there to help him.

Mr M approached Halifax for a refund. It raised a chargeback – but this was defended by the supplier. Halifax said that it wasn't able to take the claim any further.

Mr M was not happy with the outcome of his claim to Halifax so he raised a complaint with this service. Our investigator did not uphold his complaint.

The matter has come to me to make a final decision. I issued a provisional decision as follows:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

While I might not comment on everything (only what I consider key) this is not meant as a discourtesy to either party – it reflects my role resolving disputes informally.

I am sorry to hear about Mr M's issue with the car hire service he paid for. However, it is worth noting here that Halifax is not the supplier of car rental services. So when looking at what is fair I consider its role as a provider of financial services – and what it fairly could have done to help him with the information that was reasonably available to it at the time. As Mr M used his credit card to pay for the service in dispute I consider the protections of chargeback and Section 75 of the Consumer Credit Act 1974 ('Section 75') to be particularly relevant here.

Chargeback

Chargeback is based on the rules of the particular card scheme. In this case I understand the Mastercard scheme applies to Mr M's card, so it is this I have considered.

Chargeback is not guaranteed to succeed but it is often good practice to attempt one. In this case I can see that Halifax did attempt a chargeback.

There are different reason codes to raise a chargeback under. In this case (from the system notes I have seen) Mr M appears to have told Halifax that when he arrived to pick up the car

there was no one at the pickup location and he wasn't sure how to get in touch with the hire car company. Halifax therefore raised a chargeback under 'goods or services not provided'. Which doesn't appear to be an unreasonable approach to take in the circumstances.

However, the supplier responds to the chargeback in detail to say that it reached out to Mr M on the morning of his rental via email as he had not checked in online. It says that Mr M had not contacted it about any issues with the booking prior (for example to cancel it). The supplier also says that as Mr M did not contact it prior to raising a chargeback his dispute was invalid according to the chargeback scheme rules.

With this defence in mind I don't think Halifax were acting unfairly in not taking the chargeback further. I don't think there was a reasonable prospect of success noting:

- Mr M did not appear to have provided Halifax with persuasive evidence that he had attempted to resolve matters with the supplier prior to raising a dispute, despite this being a requirement under the scheme rules;*
- in any event, the supplier's defence and system notes in support of this indicated that (despite Mr M's difficulties in using it) the service was available to use; and*
- chargeback rules can be fairly narrow and I don't consider that chargeback was as well suited to the issue Mr M had here as Section 75.*

Overall, I don't consider Halifax acted unfairly in regard to discontinuing the chargeback here.

Section 75

It is not clear to me to what extent Halifax considered Section 75 as part of Mr M's claim to it. It doesn't appear to have looked at it. However, it should have done so. Section 75 is relevant here as Mr M paid using his credit card for a service costing more than £100. So I have thought about whether Halifax acted fairly in light of Mr M's rights under Section 75 and what it would have fairly discovered had it looked into things.

Section 75 in certain circumstances allows Mr M to hold Halifax liable for a breach of contract or misrepresentation by a supplier of goods or services paid for using his credit card.

There are certain requirements for a Section 75 claim to be valid and I consider these are broadly met here. However, I note that Mr M paid the supplier to book and arrange the car rental but the service was provided by a third party hire company. It follows that any Section 75 claim against Halifax is only in respect of the agreement Mr M has with the supplier (not the third party car hire company) which he financed using his credit card.

I can see from the agreement Mr M has with the supplier that it is responsible for arranging the car rental service booking. And the information available to Halifax at the time indicated that it fulfilled this basic aspect of the contract.

It is not entirely clear to what extent the supplier is responsible for the provision of the car rental service beyond simply arranging the booking. In its terms and conditions it appears to hold itself out purely as an intermediary rather than responsible for the end service. Therefore, even if the car rental company had done something wrong this wouldn't mean Halifax is responsible via Section 75.

However, even if the supplier were to claim that it is responsible for only providing a booking agency service I consider that it needs to carry out this role with reasonable 'care and skill' as implied by the Consumer Rights Act 2015. So it should pass on key information Mr M

needs in order to benefit from the booking, and not mislead him about the service he is booking.

From an online search it appears that the location of the rental service Mr M booked with the supplier was actually a branch of the car rental company that operated a 'contactless' rental service. Which means Mr M would not have a rental desk to help him when he arrived – even if he brought all his documentation with him. So I believe Mr M when he says no one was there to help him at the location.

I note that the supplier in its defence to the chargeback had pointed to the terms and conditions that Mr M signed up to and said he needed to have checked in online and uploaded his driver's licence. However, these terms do not appear to say anything about online check in or contactless pickup. In fact the booking terms under 'What you need at pick up' say 'at the counter you'll need to provide'. In another section of the booking it says 'If you don't have everything you need, the counter staff will not be able to give you the car. Don't get caught out'. The terms carry on to discuss the booking as if it is a traditional car rental where there is a car hire counter – not a contactless service where mandatory online check in is required.

From what I can gather Mr M was not aware he was booking a contactless car rental service. And was expecting staff at the location to help him. That is evident from the fact he says he turned up and no one was there to help him. I think that it was a requirement of the supplier in arranging the booking to make the nature of the service clear. Instead it appears to have actively misdescribed the service and acted without reasonable care and skill in providing its agency service which has ultimately led to Mr M turning up to a location unable to take the car as he had not checked in online. And while I appreciate that the supplier attempted to reach out to Mr M by email about this it was evidently too late – just a few hours before he was due to collect the car. I don't think this effectively mitigates the supplier's initial failing here in the way it described the service Mr M was booking.

I think that Halifax should have looked into this dispute under Section 75 and had it done so based on the information reasonably available at the time I think it would have seen that the supplier had not properly informed Mr M about the specific nature of the service it was selling him. Which appears to have caused him a financial loss.

It follows that I think Halifax should have fairly upheld a Section 75 around the time it gave Mr M an outcome on his chargeback claim in August 2023. So to put things right I think it fair that it re-works his card as if it refunded the charge for the hire car on 15 August 2023.

My provisional decision

I uphold this complaint and direct Bank of Scotland plc trading as Halifax to re-work Mr M's credit card as if it had refunded him the £131.84 on 15 August 2023. If this results in a credit balance it should refund this to Mr M with 8% yearly simple interest calculated from the date of said credit balance to the date of settlement.

If Halifax considers it should deduct tax from my interest award it should provide Mr M with a certificate of tax deduction.

Halifax said it didn't have anything further to add. Mr M did not respond.

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.

Neither party has given me cause to change my provisional findings – which I still consider fair for the reasons already given (above). These findings now form my final decision.

Putting things right

Halifax should put things right as set out below.

My final decision

I uphold this complaint and direct Bank of Scotland plc trading as Halifax to re-work Mr M's credit card as if it had refunded him the £131.84 on 15 August 2023. If this results in a credit balance it should refund this to Mr M with 8% yearly simple interest calculated from the date of said credit balance to the date of settlement.

If Halifax considers it should deduct tax from my interest award it should provide Mr M with a certificate of tax deduction.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 26 September 2024.

Mark Lancod
Ombudsman