

The complaint

Ms F complains about the way Bank of Scotland plc handled her claim under section 75 of the Consumer Credit Act 1974 ("section 75"). Her complaint includes that the bank did not accept and pay the claim. Bank of Scotland operates in this case under its Halifax brand.

What happened

In October 2023 Ms F booked a Caribbean cruise over Christmas and New Year for herself and her two sons through a holiday company which I'll refer to as "T". The total cost of the cruise was nearly £10,000, and Ms F paid most of the price using her Halifax credit card.

Ms F was not happy with the service she and her sons had received, and so she complained to T. The issues she raised included:

- The flight to join the cruise in the Caribbean was uncomfortable, especially having in mind her disability.
- The cabins she booked were not together as she had wanted. T was unable to offer an alternative.
- The food on board the cruise ship was not local and the menu did not vary.
- The food was of a poor standard. She said she found a fly and a human hair in it.
- She was unable to use her shower, because of low water pressure, and her toilet would not flush properly.
- The air-conditioning was not working.
- She was given conflicting information about the dress code for the cruise, leaving her embarrassed.
- Some furniture was worn.
- She was told there was a £50 one-off fee to use wi-fi on board, but that was not the case.

T offered, without any admission of liability, to pay Ms F £970. Alternatively, she could accept £1,500 in holiday vouchers. Ms F declined that offer and contacted Halifax. After investigation, including exchanges with T, Halifax offered to match its offer of £970 and to pay Ms F a further £1,000 – which it said was made up of £800 as an apology for poor service in handling the claim and £200 to cover calls and other expenses.

Ms F declined that offer and referred the matter to this service. One of our investigators considered what had happened but thought that the offer which Halifax had made was reasonable in the circumstances. He did not recommend that the bank increase it. Ms F did not accept the investigator's view and asked that an ombudsman review the case.

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.

One effect of section 75 is that, subject to certain conditions, an individual who uses a credit card to pay for goods or services and who has a claim for breach of contract or misrepresentation against the supplier of those goods or services has a like claim against the credit card provider. The necessary relationships between Halifax, T and Ms F are present in this case, and the transaction falls within the relevant financial parameters. I have therefore considered Ms F's dealings with T.

I have summarised in the background above the aspects of the holiday with which Ms F was dissatisfied. It is clear that the holiday did not meet her expectations in many respects. It does not follow however that, even if I accept what Ms F has said about her experience, she has a claim for breach of contract or misrepresentation.

In respect of the location of the cabins on the cruise, I have seen no evidence that T agreed that the cabins Ms F booked would be together. There is evidence that Ms F sought a different cabin arrangement once she was on board, and that crew tried to find different cabins. That does not mean, however, that T agreed to provide cabins which were together.

The flight booking shows that all members of Ms F's party booked standard seats. They did not, for example, request extra legroom. It is unfortunate that Ms F found the flights uncomfortable, but I do not believe that could give rise to a claim against T.

Nor is there any evidence that it was part of the agreement that local food would be provided, or that Ms F was told that it would be.

As far as the facilities on board are concerned – shower, toilet, air-conditioning and furniture – T says it has no record of any complaint being made during the cruise. That means that T was not given an opportunity to put things right at the time. But, even if there were such a record, it is far from clear that any of these matters would give rise to a claim for breach of contract or misrepresentation which would merit a payment of compensation.

The evidence which Ms F has provided shows that there was some contact with crew members about the possibility of arranging different cabins. There is also evidence that passengers were invited to notify staff of dietary requirements and that they were invited to a meeting. But T says that invitation was so that passengers could find out about what was on offer and was not connected with any complaint or other concern.

Ms F has said that the food was of a poor standard and that the kitchens were unhygienic. In support of her case, she had submitted photographs of a fly in a salad and of human hair on a pizza. If Ms F had been served food in that condition, I would expect her to raise the issue immediately and for the restaurant to offer an alternative. She has not suggested that she did, and T says it has no record of any complaint.

In addition, an online search of those images indicate that they have been taken from news reports dating back to 2019. They are not photographs taken by Ms F on the 2023/2024 cruise.

It is not for me to say whether Ms F does in fact have a claim against T. Nor is it for me to decide whether she has a claim against Halifax under section 75. What I must do is decide whether Halifax's offer of settlement is fair in all the circumstances. In my view, it is – for the reasons I have explained.

I have also considered however whether Halifax should have sought a refund under the chargeback scheme. Where goods or services are paid for with a debit or credit card and a dispute arises, it is often possible to resolve that dispute through the chargeback process. Chargeback is a scheme run by the card schemes (in this case, Mastercard). A card issuer (here, Halifax) raises a claim through the scheme against the merchant's provider of card facilities. That provider will then consider whether the claim meets the relevant criteria for chargeback (if necessary, seeking evidence from the merchant) before responding to the claim. Where necessary, the scheme provides for arbitration between the financial businesses.

Chargeback is however primarily a scheme for resolving disputes about payment settlements – including, for example, where payments are not authorised or are duplicated, or where goods have been paid for but not delivered. It can therefore have the effect in some cases of resolving disputes between merchants and consumers, but it is not always an appropriate or effective mechanism for achieving that aim.

There is no legal or regulatory obligation on a card issuer to pursue a chargeback claim, but this service takes the view that they should do so where there is a reasonable prospect of success.

In this case, there was no payment dispute, and Ms F received the services she had paid for – albeit not to the standard she says she was expecting. In the circumstances, I think it most unlikely that a chargeback claim would have succeeded. It follows that it was reasonable of Halifax not to pursue one.

In the circumstances, therefore, I think that Halifax's settlement offer was reasonable. I simply leave it to Ms F to decide whether, on reflection, she wishes to accept it – assuming of course that it remains open for acceptance.

My final decision

For these reasons, my final decision is that I don't uphold Ms F's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms F to accept or reject my decision before 25 February 2025.

Mike Ingram

Ombudsman