

## **The complaint**

Mr C complains that a ferry operator did not provide the service he had booked. Because he paid using his credit card, issued by Bank of Scotland plc, he says that he has a claim against it under section 75 of the Consumer Credit Act 1974 ("section 75"). The bank operates in this case under its Halifax brand.

## **What happened**

In 2024 Mr and Mrs C took a European road trip. As part of that trip, they booked a ferry for themselves and their vehicle from Italy to Greece and back. They booked a luxury cabin on board a named vessel. It was scheduled to leave Italy at 1pm and arrive in Greece at around 10pm the following day.

Around 48 hours before the ferry was due to sail, the operator, which I'll call "A", sent a message saying that the vessel had been changed. Mr and Mrs C did not receive that message – which it appears was sent to a different phone from that which they were using while away.

By the time Mr and Mrs C found out that their arrangements had been changed, therefore, they were at the ferry terminal and committed to the journey.

Mr and Mrs C say that the replacement vessel was vastly inferior to that which they had booked. It did not have luxury cabins of the type they had booked and paid for. In addition, it was one hour late leaving and arrived some five hours later than Mr and Mrs C had expected.

Mr C raised the issue with A. In doing so, he noted that the same vessel was scheduled for the return journey, but that he and Mrs C could return on a different vessel from further away. In an effort to resolve the issue, A provided Mr C with a partial refund €210.90 in respect of the outbound journey and €65 in respect of the additional fuel used to join the return sailing. It also offered a free meal in the self-service restaurant on the return journey and a 50% discount on a future journey taken within 12 months. Mr and Mrs C were unable to accept the discount, since they did not plan to use A's services within that time.

Mr C did not think that went far enough. And he noted that, amongst other things, the changed arrangements meant that he and Mrs C had had to spend an additional night in hotel accommodation. He thought A should meet that cost. It declined to do so (or otherwise to increase its offer), so Mr C contacted Halifax to make a section 75 claim.

Halifax declined to meet Mr C's claim, for two main reasons. They were:

- Mr C had already settled his claim against A.
- The claim for additional hotel costs was a claim for consequential loss, which Halifax would not cover under section 75.

It did however pay Mr C £50 in recognition of what it said were some failings in its communications.

Mr C referred the matter to this service, where one of our investigators considered what had happened. He issued an assessment in which he concluded that Mr C had accepted the resolution offered by A and that it was reasonable in the circumstances.

Mr C did not accept the investigator's assessment and asked that an ombudsman review the case.

I did that and issued a provisional decision in which I said:

*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, A and Mr C are present in this case, and the transaction falls within the relevant financial parameters. I have therefore considered Mr C's dealings with A.*

*I shall deal firstly with the bank's argument that Mr C has resolved his claim against A. If he has, he no longer has a claim for breach of contract or misrepresentation. And it would not be fair to revive any claim he did have to make a claim under section 75.*

*I do not believe however that Mr C did reach a settlement with A. He has received some compensation from A, but at no point in their exchanges does it ever appear that Mr C indicated he had received enough to resolve their dispute. I must of course take account of any compensation which Mr C has received (so that he does not make a double recovery), but I think it is quite clear that he regards such compensation as insufficient to resolve matters.*

*The second basis on which Halifax declined Mr C's claim was that it will not pay under section 75 for consequential losses. There are however no grounds for taking that approach. The general approach to compensation for a breach of contract is to place the wronged party in the position they would have been in but for the breach. And that party is usually entitled to recover losses which are suffered as a result of the breach and which are a reasonably foreseeable consequence of it. Depending on the circumstances, a claim for breach of contract could far exceed the value of the underlying contract.*

*The basis of Mr C's underlying claim in this case is that the vessel provided was not the one which he and his wife had booked. A does not appear to challenge that claim, and I am satisfied it is correct. The significance of that is, however, not that a different vessel was used, but that the replacement was of a very different specification and provided a very different experience for Mr and Mrs C.*

*Mr and Mrs C took a different ferry on the return journey, having realised that the alternative would be to take the same ferry again. Their return journey was, therefore, of broadly the standard they paid for. But they had to drive further than they should have done to join the ferry. I am satisfied too that meant they had to pay for hotel accommodation.*

*Mr C has received a partial refund in respect of the outward ferry trip. I have considered whether he should receive more, but on balance I think the sum paid by A is sufficient compensation for that element of his claim. And I note that, recognising the additional cost of travel to reach a suitable vessel for the return, A has reimbursed Mr C for additional fuel.*

*That leaves the claim for hotel accommodation which Mr C says was needed because the return trip would otherwise have been on the same unsatisfactory ferry which he and Mrs C had taken to Greece. Had they taken that ferry for a second time, they may well have made a successful claim for a second partial reimbursement. In the circumstances, I do not believe that a claim for a night in a hotel is unreasonable. Mr C has indicated that £150 is a typical price, and I accept that. It's also broadly similar to the amount which A paid in respect of the outward journey.*

*I stress that it is not for me to say whether Mr C has a claim for breach of contract or for misrepresentation against A or whether he has a claim under section 75. What I must do is decide what I consider to be a fair resolution of Mr C's complaint about the bank's response to his claim. In my view, it would be fair to require Halifax to pay Mr C a further £150.*

Halifax accepted my provisional findings and indicated that it would be prepared to pay Mr C £150 to resolve the complaint. Mr C did not think however that this was enough. He noted that the offer made by A was based on the difference in the cabin price, but the whole standard of the replacement ferry had been very different. He would not have booked to travel on a vessel of that standard.

### **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, however, I have not changed my view from that set out in my provisional decision. Whilst I understand Mr C's comments about the overall standard of the replacement ferry, it seems to me that his real loss here was that he paid for a luxury cabin which was not provided; but A has compensated him for that loss. I appreciate that the replacement ferry would have left him and Mrs C disappointed, but I am not persuaded that they would be able to claim for that disappointment as part of a claim for breach of contract.

A further consequence of the change of ferries was that Mr and Mrs C had to stay in a hotel. That had a financial cost, which I think Halifax should meet – and it has agreed to do so. But I think payment of £150 is sufficient to resolve things fairly.

### **Putting things right**

Halifax has agreed to pay Mr C a further £150, but I will make a formal award of that sum, so that Mr C can enforce it, in the unlikely event that he needs to do so.

### **My final decision**

For these reasons, my final decision is that, to resolve Mr C's complaint in full, Bank of Scotland plc should pay him £150.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 10 July 2025.

Mike Ingram

**Ombudsman**