

The complaint

Ms M complains about the way Bank of Scotland plc trading as Halifax ('Halifax') handled her request for a refund.

What happened

In late 2020, Ms M purchased a laptop for £1,199 from a seller on an e-commerce platform ('E') which was advertised as: *"Brand new...Box opened, laptop was turned on once...Comes with brand new charger and cable brought in [a retail store owned and operated by the manufacturer (the 'manufacturer's store')] still with price tags at the back which shows it's genuine..."*. Ms M made the payment via an online payment system ('P') checking in as a 'guest' using her Halifax credit card.

In early 2024, the laptop wouldn't switch on, so Ms M took it to a branch of the manufacturer's store for repair. A diagnostic report showed the following faults with the laptop: *"Customer reports that their [laptop] is not powering on...When unit opened and inspected, no signs of shorting or damage internally...Fans spin and trackpad has weak response but no power. Unable to perform any reinstall/restore as unit not recognised by external [computer]...Flat rate 2 repair would be needed through repair centre at costing of £589.00. Cosmetic Condition: Trackpad is out of alignment with a visible gap along the top edge..."*. And: *"Internal inspection finds some loose screws inside, lying on the logic board...Reseated screws, one still missing from board."* The proposed repair was to replace the 'logic board' at the out of warranty rate.

After checking the laptop's serial number against its records, the manufacturer's store's agent was also able to let Ms M know the laptop had a previous repair – a new battery and top case had been fitted in 2020 prior to her purchase. The manufacturer store wouldn't provide the previous customer's details due to data protection issues. Ms M was also told the laptop had been manufactured in July 2020 and shipped to a department store in August 2020.

Ms M contacted E, P, and Halifax about the seller misrepresenting the laptop as 'brand new'. Neither E nor P gave Ms M a substantive response. Halifax considered Ms M's claim under section 75 of the Consumer Credit Act 1974 ('section 75') but it didn't think there was a valid debtor-creditor-supplier ('DCS') agreement in place due to the payment being made via P. Ms M complained but when Halifax maintained its position, she referred this matter to our service.

Our investigator considered this complaint should be upheld. He thought the relevant section 75 criteria had been met. And he thought the seller had misrepresented the laptop as being 'brand new' when, in fact, it had been refurbished. In terms of redress, our investigator said given Ms M had use of the laptop for a considerable period of time, this needed to be taken into account. With this in mind, he thought the fairest resolution was to ask Halifax to pay Ms M the difference between what she paid in 2020 and what she'd likely have paid if she'd purchased a refurbished laptop at that time. He noted the manufacturer's website said its refurbished laptops can be discounted by up to 15% against a new (same) laptop. He, therefore, recommended Halifax pay Ms M £179.85 being 15% of £1,199.

Halifax accepted the investigator's view, but Ms M did not. Amongst other things, she said: she wants a full refund – the laptop she purchased wasn't 'brand new' rather it was refurbished; the

first repair by the manufacturer's store wasn't a good job because there were screws left in the laptop; the seller 'scammed' her knowing the laptop wasn't brand new; she's not been able to use the laptop since 2022 due to personal circumstances; she's seeking compensation for consequential losses including for: the original cost; the cost of accessories; lost wages and data; travel expenses for two trips to the repair centre; and compensation for emotional distress. Ms M asked for an ombudsman's decision on this matter.

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 appreciate Ms M has very strong feelings about what happened here. I want to assure her that I've thought carefully about everything she's said – including during calls to our investigator – and sent to us, but I won't be commenting on everything she's said or provided. Instead, I'll focus my decision on what I consider to be the key matters which simply reflects our informal remit. I also won't consider the complaints she's made against E and P which are separate matters. Further, I should note here that I have made my decision on the balance of probabilities. And whilst I've taken into account the law when reaching my decision, I must also have regard to what I consider is fair and reasonable in all the circumstances of the complaint.

In certain circumstances, when a cardholder has a dispute with a merchant, the card issuer can attempt a chargeback. Generally, we say it's fair for a card issuer to attempt a chargeback through the chargeback scheme (which in this case is run by Visa), if there's a reasonable prospect of success. I think the most likely chargeback rule under which this would be raised is 'not as described'. Under the Visa rule any chargeback could not exceed 540 days from the transaction date. And, as Ms M's request for a refund was outside of this timeframe, I don't think her dispute had a reasonable chance of success. So, I don't think Halifax acted unfairly for not considering initiating a chargeback.

When something goes wrong and the payment was made with this type of credit, it might be possible to make a section 75 claim. This section says that in certain circumstances, the borrower under a credit agreement has a like right to claim against the credit provider if there's either a breach of contract or misrepresentation by the supplier. Amongst other things, for section 75 to apply the law effectively says that there needs to be a DCS agreement. Initially Halifax did not consider there was a valid DCS agreement in this case. But I'm satisfied there is for the reasons set out by the investigator. In any case, it appears Halifax no longer holds this view.

Looking at the situation here, I think the seller saying the laptop was 'brand new' and only 'turned on once', were likely to be untrue statements of fact given a new top case and battery was fitted shortly before Ms M's purchase. I'm also persuaded by Ms M's testimony that she reasonably relied on the seller's statements about the laptop being 'brand new' before making her purchase. I should note here that there may well have been a breach of contract but given I don't think this would make a difference to the redress, I won't consider that further here.

I understand why Ms M feels she was 'scammed' by the seller, and I don't underestimate how upsetting it must have been to find out the laptop had undergone some repairs prior to her purchase in 2020. But even if there has been a misrepresentation, I still have to consider what is fair and reasonable here. And on balance, I don't think this means Halifax is responsible for paying the full sum Ms M paid for the laptop; she did, after all, have the benefit of a recently manufactured laptop for more than three years, which had a new battery and new top case at the point she purchased it. The new top case and battery was also fitted by the manufacturer in one of its stores. I appreciate Ms M doubts they did a good job because of loose screws found during the subsequent repair, but given the passage of time, I don't think it is possible to say this was related to the repairs in 2020.

Ms M says she didn't benefit from the use of the laptop from 2022 onwards. But from what she's said this wasn't related to the repairs in 2020 but rather due to her personal situation. And the laptop had signs of wear and tear when she took it for repair in 2024. In particular, the manufacturer's store noted in its (2024) diagnostic report that the laptop's trackpad was: *"out of alignment with a visible gap along the top edge."* Additionally, the laptop failed due to what appears to be a problem unrelated to the issues that led to the repair in 2020 – this repair involved fitting a new top case and a new battery whereas the subsequent repair was related to the 'logic board'. I can't see the manufacturer's store in 2024 linked the logic board problem in any way to the fitting of a new battery or new top case in 2020.

To be clear, I don't think it is simply the delay in bringing the claim which is at issue here – Ms M understandably only discovered the untrue statements when she took the computer in for repair. However, in all the circumstances, I think it fair and reasonable to give credit for any benefits which have been received as a result of the transaction. As a general rule, the benefits received include the market value of the property acquired as at the date of the purchase. Given the time that's passed, it's not possible to get an exact figure for the market value in 2020 for a refurbished laptop. However, the manufacturer's official website says a customer can expect to receive a certified refurbished laptop to be discounted at up to 15% of its brand new equivalent. Therefore, I think fair compensation will be for Halifax to pay Ms M £179.85 which is 15% of the price she paid in 2020. I know Ms M has asked for consequential losses, but none of the losses she's referred to appear related to the repairs in 2020. So, I don't think it would be fair or reasonable to ask Halifax to compensate her for these.

I appreciate this is not the outcome Ms M was hoping for. As noted above, my role is to look at things informally. So, if Ms M disagrees, she can reject my decision and pursue matters by alternative means if she wants, such as court (seeking appropriate advice in the process).

My final decision

For the reasons set out above, my final decision is that Bank of Scotland plc trading as Halifax must pay Ms M £179.85.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 3 July 2025.

Yolande Mcleod
Ombudsman