DRN-5613166

The complaint

Miss D complains about the way in which Bank of Scotland plc handled a large number of chargeback requests in connection with payments to online gambling sites. She says too that the bank should have identified from the activity that she was a vulnerable customer and that it should have intervened. The bank trades in this case under its Halifax brand.

What happened

In November 2024 Miss D contacted Halifax to raise chargeback claims in respect of a number of gambling transactions made between July and September 2024 to a number of different businesses.

Halifax considered Miss D's request. It noted that not all of the transactions which Miss D had listed were card payments, so that chargeback could not be available in any event. It concluded that there was no realistic possibility of a successful chargeback claim in respect of the card payments and so did not pursue the matter further.

There was however one exception, which Halifax says it pursued in error. It received no response from the merchant, and so Miss D received a refund of just over £1,000. In recognition of its error, Halifax paid Miss D a further £40.

Miss D referred the matter to this service, complaining that Halifax should have raised chargebacks on all the card payments. She said she believed that incorrect merchant category code (MCC) may have been used to avoid payments being identified as gambling payments and therefore being blocked by the bank. The bank offers its customer the option of blocking payments identified as gambling payments and of applying a gambling limit. Miss D says she used the block from time to time.

One of our investigators considered Miss D's complaint but did not recommend that it be upheld. She noted that the only chargeback reason which might apply was that the merchant or merchants had used Invalid Data – that is, the payments had been processed as something other than gambling payments. The relevant time limit for raising a chargeback claim for that reason was 75 days. The investigator concluded therefore that all but two of the payments had been made more than 75 days before Miss D had raised any query about them.

The remaining two payments totalled just over £750. But the investigator noted that Halifax had incorrectly raised a chargeback request for over £1,000 and that Miss D had benefited from that. So, overall, it would not be fair to require Halifax to refund the two payments where the time limit did not apply.

Miss D did not accept the investigator's assessment and there were further exchanges between her and Miss D; the investigator also obtained further information from the bank.

As a result of those exchanges, the investigator accepted that there were further payments which Miss D had brought to the bank's attention before the 75-day time limit had expired. She was not persuaded however that this meant Halifax should have attempted chargeback.

In summary, she thought that it would be necessary to show that the payments had been made when the gambling block was active and that the wrong MCC had been set by the merchant's payment provider. But it was not possible to identify when the gambling block had been active. In addition, the investigator noted that some providers may offer services other than gambling, so might legitimately use a different MCC from that linked to gambling payments.

In respect of the complaint that the bank should have intervened in the operation of the account, the investigator said that it was generally under a regulatory duty to complete payments which a customer has authorised. She did not believe that the bank should have stepped in to stop or query the transactions which had led to this complaint.

Miss D 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.

Having done so, I have reached broadly the same conclusions as the investigator did, and for similar reasons.

I'll discuss the first of all whether Halifax should have intervened to stop or query the payments which Miss D says should have been refunded. The bank's primary duty in respect of payments from an account which is in credit is to follow its customer's instructions and complete the payment. A bank can stop a payment in some circumstances – for example, where it suspects fraud or where instructions are not clear. And some banks, including Halifax, allow customers to set parameters to limit or block payments – in effect, overriding individual payment instructions.

The payments in this case were, however, not fraudulent or suspicious. Miss D has never suggested she did not make them or that she was misled or coerced into making them. I do not believe I can fairly say that they should have been stopped.

In the course of our consideration of the complaint, however, Miss D has referred to her wider use of the account, going back three or four years. That was not, however, part of the complaint she referred to this service, and I therefore make no comment on it. That means that my decision will not affect any rights she may have to bring that issue as a separate complaint in due course.

I turn then to the complaint about the bank's decision not to seek chargebacks.

There is no legal or regulatory duty on a bank to seek a chargeback; whether it does so is a matter for its commercial judgment. We generally take the view, however, that a bank should seek to exercise chargeback rights where there is a reasonable prospect of success.

I broadly agree with the investigator that in this case Halifax was justified in concluding that chargeback requests were unlikely to be successful. Apart from the payments which had been made more than 75 days before Miss D raised them, a successful chargeback request was dependent on a quite specific set of facts being in place and on there being evidence to support those facts. In short, Miss D would have needed to show that a payment should have been blocked and that the reason it wasn't was because the wrong MCC was set. I cannot rule that possibility out for every payment, but there was little or no evidence to show that any payment was made when it should not have been. In the circumstances, I think the bank's conclusion that chargeback requests would probably be unsuccessful was a reasonable one.

As I have said, one payment was refunded, because the merchant didn't respond to the chargeback request. It's possible that, had Halifax made more requests, a similar outcome would have been reached in one or more cases. I don't believe however that is a reason to conclude that Halifax should have submitted requests in the hope that some merchants would not respond. The reasonable expectation was that they would.

My final decision

For these reasons, my final decision is that I do not uphold Miss D's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept or reject my decision before 3 September 2025.
Mike Ingram
Ombudsman