

The complaint

Mr T is unhappy with how Bank of Scotland ("Halifax") handled his refund claim.

What happened

Mr T used his Halifax credit card to upgrade his return flights when travelling back home with his sibling. Mr T purchased the two flight upgrades at the airport. He says he was quoted a price of 5,960 Malaysian Ringgit (approximately £1,024). However Mr T subsequently discovered that he had been charged 11,920 Malaysian Ringgit. In addition, Mr T said both seats weren't working correctly and therefore he didn't receive the service he'd paid for.

Mr T complained to the airline I shall call 'R' but as they didn't resolve the matter satisfactorily, he contacted Halifax to raise a chargeback claim against R and a Consumer Credit Act 1974 ("CCA") Section 75 (S75) against Halifax.

Halifax raised Mr T's chargeback but subsequently didn't consider there was a valid claim as the chargeback was defended by R which Halifax accepted. They also considered the S75 claim but felt there Mr T hadn't provided sufficient evidence of a breach of contract or misrepresentation by R.

As Mr T remained dissatisfied, he brought the complaint to our service. Our investigator reviewed his complaint and concluded that Halifax were correct in declining the chargeback and S75 claims for the same reasons. They noted however that there were several customer service issues during the claim process but considered the compensation already paid by Halifax to be appropriate.

Mr T felt a full refund was due and so asked for an ombudsman to issue a final decision.

What I've decided – and why

I previously issued a provisional decision and said the following:

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

I've read and considered the evidence submitted by the parties but won't comment on it all – only the matters I consider to be central to the complaint. This isn't intended as a discourtesy but reflects my role in resolving disputes informally.

It's important to note that Halifax aren't the provider of the services here so in deciding what is fair and reasonable, I'm looking at their particular role as a provider of financial services. In doing so I note that because Mr T paid for this transaction using his credit card, both chargeback and a S75 claim could possibly help him. So in deciding what is fair and reasonable I've focussed on this.

Chargeback

There is no requirement for Halifax to raise a chargeback, but it's often good practice to do so. However, a chargeback isn't guaranteed to succeed and is governed by the limitations of the particular card scheme rules (in this case Mastercard). I've considered the relevant chargeback rules in deciding whether Halifax acted fairly.

The relevant chargeback code used here was 'Goods or Services Were Either Not as Described or Defective'. The chargeback was raised by Halifax but was defended by R as they said there hadn't been a record of a complaint and if it had been raised, it would've been attended by the crew. They also said that all equipment would be inspected to ensure it is in good condition before departure.

R also confirmed the transaction paid and that this was used to upgrade the booking from economy to business class. Therefore they didn't think a refund was due.

In considering Halifax's consideration of the chargeback claim, I need to determine if they needed to ask for more information from Mr T and if this would've meant there was a prospect of success had it progressed to arbitration.

However based on R's comments that they didn't have evidence of a complaint, that all equipment is checked by the airline and in addition the transaction was correct, I don't consider Halifax acted unreasonably in declining the claim as they didn't think there was a prospect of success. I do note that in their chargeback response they said that where a service is undertaken there aren't chargeback rights under Mastercard. I can't agree that's correct but for the reasons explained, I don't think there would've been a prospect of success had it progressed.

I also note that Mr T has complained about the fact that the evidence submitted by R was dated July 2024 and so considers too much time had elapsed from when he first raised the dispute with Halifax. I note the chargeback was raised in May 2024 and so I don't think this period was unreasonable. While Mr T said that an earlier deadline was given for R's response to Halifax, it was necessary to have their further submissions in assessing the claim. In terms of the general claim handling, I've addressed this later in the decision.

S75

S75 provides that in certain circumstances the borrower under a credit agreement has an equal right to claim against the credit provider if there is either a breach of contract or misrepresentation by the supplier of goods and services.

To assess a valid claim, Halifax would've needed to consider all relevant evidence for the alleged breach of contract or misrepresentation. But for there to be a valid claim under S75 there are certain technical requirements. One of these tests is around the financial limits and having considered this, I think this is met here.

Another test in the CCA for a valid claim is that there must be a debtor-creditor-supplier (DCS) arrangement in place. This means there needs to be the necessary three-party relationship between these parties.

To clarify this means the person who paid for the goods (Mr T) should have a contractual relationship with the supplier R as well as the credit provider (Halifax). While this is in place for Mr T, I note he travelled with his sibling who is party to the claim.

I've reviewed the DCS agreement for Mr T's sibling with consideration to R's terms and conditions and I do think it's in place. However after consideration of the available evidence I don't think there has been a breach of contract or misrepresentation here in any event Therefore I don't consider a benefit in explaining my thinking further here regarding DCS. I'll now explain why I've reached these conclusions regarding Mr T's S75 claim.

Breach of contract – price paid

The first part of Mr T's complaint is about the price of the seat upgrades as he says he was overcharged for both seats by R. I've considered this under whether there's a breach of contract to Mr T with mind to the Consumer Rights Act 2015 (CRA) and particularly S50 (S50) which I'll explain below.

Mr T has said that he was told a certain price at the airport when he agreed the seat upgrade with R. He says he paid for the upgrade using his credit card in a chip and pin reader and while he received a receipt showing the amount paid, he didn't read this until later.

I've reviewed this receipt, accompanying document and Mr T's credit card statement and am satisfied by the amount paid and the fact it was noted as a 'last minute upgrade' on his flight. However there is no reference to the passenger names on the receipt or the accompanying document. I understand however that none of the parties concerned have disputed that Mr T and his sibling did travel in the upgraded cabin for this flight so I won't consider this further

With reference to the CRA then and specifically S50, this does say:

“(1) Every contract to supply a service is to be treated as including as a term of the contract anything that is said or written to the consumer, by or on behalf of the trader, about the trader or the service, if—

(a) it is taken into account by the consumer when deciding to enter into the contract,

or

(b) it is taken into account by the consumer when making any decision about the service

Therefore if Mr T was told by R that the upgrade would cost a certain amount, that could be reasonably be considered a term of the contract. However there would need to be sufficient evidence to show this agreement occurred and while Mr T has said R offered a lesser sum payable, I've not seen any documentary evidence of the actual price agreed.

I've also reviewed R's own terms and conditions and while there is a section related to fees for specific seat selection, there aren't any terms applicable for Mr T's specific situation here regarding last minute flight upgrades offered at the airport.

With all of this in mind, I can't say I've sufficient evidence of a breach of contract here and that the actual sum paid wasn't the sum agreed. And so I don't think Halifax need do anything more.

Misrepresentation – price paid

For a misrepresentation to have occurred, there must be sufficient evidence to show R likely

made a false statement of fact that caused Mr T to purchase the upgrade tickets

I appreciate Mr T has said that he was told a lower payment amount for the upgrade by R than the amount that was actually taken when he approved the transaction on the chip and pin reader. However beyond Mr T's testimony I'm quite limited by the evidence available regarding what happened at the time of sale. As explained above the receipt and accompanying document for the flight upgrade confirm the final price paid and there is no documentary evidence referring to the lower price that Mr T says was agreed.

So while I appreciate Mr T has said the price was misrepresented to him, I don't have sufficient evidence that a false statement of fact was made here that induced Mr T to purchase the upgrade tickets

Breach of contract – seats

The second part of Mr T's complaint relates to his plane seats. He says that there was erratic functionality so that the footrests would recline on their own or that the massage function or seat lights would start up by themselves.

He says when he complained he wasn't provided assistance and also wasn't given alternative seats even though they were available. He also stated that a reference number wasn't provided for the issue when he asked for the complaint to be taken forward.

R in response said they've no record of a complaint about the issue being made during the journey. They also said their crew would always attend to any such issues highlighted during the flight.

R has also said that the cabin crew carry out pre-flight duties which include inspection of all equipment to ensure it is in good condition before the flight departure. In turn R hasn't commented on any issues discovered with the seats in question during these checks.

I've reviewed R's terms and conditions on their website but there are no specific terms to cover issues with faulty seats. In reaching my findings I've also considered the implied terms under the CRA which state that services should be performed with reasonable 'care and skill'. And this would mean that the evidence would need to show that the flight service here (which would include seats and their functionality) was provided to the required standards.

However I've insufficient evidence to confirm that the seats weren't as would be expected. I understand Mr T has said he did experience the intermittent issues described and didn't receive the appropriate support from the cabin crew. But in the absence of any further documented evidence I can't say there has been a breach of contract here and Halifax need do anything more.

I note R offered some compensation in miles as a gesture of goodwill to Mr T which was declined. While I acknowledge this offer, as I don't agree there has been a breach of contract, I don't think Halifax would be liable for any redress to be paid.

I must also address a quote that Mr T has provided in his complaint form to us where he thinks R has admitted liability. He says their response said that they 'concede that there are instances where disruptions do occur to our equipment due to faulty components. This incident has been highlighted to our Engineering Department and they have been reminded to undertake quality checks and to ensure the same situation does not occur'.

While I appreciate Mr T's interpretation of R's response I don't think this is a confirmation that R discovered the seats had these faults. I think it's more of an acknowledgement of his complaint and the fact he said he had this experience. I can't agree that I can solely rely on this and Mr T's comments to say there was a breach of contract here regarding the care and skill provided in this flight service.

I also note that the crew also didn't move Mr T even though seats were available and in addition both Mr T and his sibling both suffered from the same issues. This is rather unusual and with this in mind and the lack of evidence to show there was a breach of contract, I don't think Halifax acted unreasonably in declining the claim.

Halifax's handling of the unauthorised transaction complaint

While I've looked at both the chargeback and S75 claims above regarding the issues raised, there is another aspect I must consider. And that has to do with the complaint about the amount charged to Mr T for these seats and how Halifax has considered this outside these claims.

Generally, a bank is expected to process transactions that a customer authorises it to make. What constitutes an authorised or unauthorised transaction is defined in the Payment Services Regulations (PSRs), which broadly say that Halifax would only be required to refund Mr T if he didn't make or authorise the disputed transaction himself. If Mr T did authorise the transaction, Halifax wouldn't be expected to refund it.

Authorisation in this context has a narrow meaning. A transaction is considered to be authorised if Mr T entered his card and PIN to authenticate and consent to the transaction. This is the case even if Mr T did not know or consent to the amount charged.

Crucially Mr T entered his card and PIN to authenticate and consent to the transaction. It doesn't matter whether he knew the amount or not to be able to authorise the payment. His actions meet the requirements for Halifax to be able to treat the payment as authorised.

I'm sympathetic to Mr T's circumstances and appreciate his comments that he thought he was paying less than what he was charged. But as it appears Mr T agreed to use his card and pin to make the payment and based on the evidence I've seen I'm persuaded this happened – and so I think the transaction was authorised. In the circumstances, Halifax aren't obligated to refund the transaction under the PSRs and therefore I don't think they did anything wrong here.

General customer service in handling Mr T's complaint

I see Halifax has noted there were various customer service issues relating to Mr T's claims and they provided the following comments:

- Halifax provided incorrect information to Mr T for the deadline given to R for when their submissions needed to be provided by. £60 compensation was paid to Mr T for this.*
- Halifax noted that there had been poor customer service provided overall and paid £250 to address this.*

- *Halifax also noted that Mr T had a late payment marker on his account despite being previously advised that payments wouldn't be due during the S75 claim. £111 was paid to him to address this.*
- *Their FRL of June 2024 also confirmed an additional payment of £190 for their overall handling of the claim*

This means Mr T was paid £611 in total to address various failings during the claim process. I see he mentioned generally in his complaint form to us that he had been misinformed, had promises of phone calls back regarding the claims which didn't occur and had to repeatedly provide the same evidence. He also subsequently said he doesn't think this amount is adequate for the service received.

While I appreciate Mr T's position, I do think this is a substantial offer to put things right and I can't agree it fair for them to pay anything further here.

Halifax accepted the provisional decision and had nothing further to add. Mr T responded however to state that he didn't accept my findings and also provided a number of further comments.

Regarding this I'll only be looking at Mr T's submissions regarding the merits of this complaint and I won't be addressing any points in detail that I've already covered. Here are the submissions I consider most pertinent here:

- Mr T has said he feels the chargeback had a prospect of success had it progressed further - based on the airline comments regarding a possible fault. I already addressed this in the S75 section when I said I felt this was more of "an *acknowledgement of his complaint and the fact he said he had this experience*". I also said "*I couldn't solely rely on this and Mr T's comments to say there was a breach of contract here regarding the care and skill provided in this flight service*".

I therefore consider it unlikely to have succeeded if the chargeback had progressed for the reasons explained prior and likewise I also explained why I didn't think there was sufficient evidence for a successful S75 claim.

- Mr T has also said he informed the flight crew of the incident at the time and says he has been penalised for this not being noted. While I appreciate his position, I've considered all the evidence available – and in this case R said there is no record of the complaint during the journey. Mr T has also questioned the level of pre-flight checks but again I must consider R's submissions stating these were done. Likewise while Mr T has mentioned time given for R's response to Halifax I don't think this has a bearing on the outcome reached here.
- Mr T has asked about the technical requirements of S75 and how they've been met. The decision already mentioned the relevant ones regarding the monetary limits and the requirements for a DCS arrangement which are in place here. I don't see any reason to go into this further.
- Mr T has also explained that he accepted the staff members word at the airport for the price of the upgrades. In terms of this, I've considered the evidence available and whether this is sufficient to consider there has been a breach of contract. I explained in my decision why I don't think this is the case.

- Mr T has also raised the question of how he agreed to a transaction when he didn't see the amount charged. It would've been important to ensure this figure was confirmed before a pin was entered and likewise the amount paid confirmed following the transaction. I've already explained in my decision why entering the payment card and PIN would consent to the transaction.
- Lastly Mr T has explained his customer service complaint is separate from his claim for a full refund. While I appreciate this, my decision explained why I consider there is insufficient evidence that Halifax handled the claims incorrectly and so why they need not do anything more.

My final decision

For the reasons above I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 5 September 2025.

Viral Patel
Ombudsman