

The complaint

Miss G complains about the way Bank of Scotland plc trading as Halifax ('Halifax') handled her request for a refund. Miss G's complaint involves a holiday she booked with her travelling companion (the 'companion'). At various points, I may only refer to Miss G, but it should be taken to include her companion particularly in reference to what happened during the holiday itself.

What happened

The background details of this case are well known to the parties so I will only summarise these briefly.

Miss G and her companion purchased a thirteen night package holiday abroad through a supplier who I'll refer to as 'T'. A deposit was paid of £1,038 from funds from a cancelled holiday, and Miss G paid half of the remaining balance of £5,035 (i.e. £2517.70) using her Halifax credit card (the 'card') and the remaining balance was paid by her companion using his card which was with a different provider. The holiday started in mid-March 2023 and was a group (the 'group') holiday travelling, mostly by private bus, to different locations staying at various 'comfortable' hotels with the majority of meals included. A tour guide (the 'guide') was to accompany the group throughout.

On day three of the holiday (14 March 2023), Miss G decided to leave due to disagreements with other members of the group. T responded to Miss G's complaints but stated it hadn't done anything wrong. So, Miss G contacted Halifax to request a refund under section 75 of the Consumer Credit Act 1974 ('section 75') for breach of contract. She wanted to claim for the costs of alternative accommodation and flights as well as other consequential losses. However, Halifax declined the claim saying issues of this nature are difficult to substantiate and it considered there was very little supporting evidence to prove that T was in breach of contract. Miss G complained. When Halifax maintained its position, she referred the matter to us.

Miss G made several points including: she felt 'bullied' by other members of the group and T didn't do enough to support her; the guide told Miss G that she was no longer part of the group; Miss G had to find her own way back to the UK bearing additional costs; her companion's behaviour wasn't unacceptable; she has several recorded conversations supporting her version of what happened but Halifax didn't ask for any of this and/or other evidence; Halifax simply accepted everything T had said; her claim against T via a trade association ('TA') due to T wrongly saying it had partially refunded her; and Halifax should've initiated a chargeback.

Our investigator didn't uphold the complaint. In short, they didn't think there was sufficient evidence to support that Halifax should be held liable under section 75 for breach of contract. Miss G disagreed restating the position which I've summarised above. I issued a provisional decision. Halifax said it had nothing further to add. Miss G didn't respond. So, the matter has been passed back to me to finalise.

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.

As neither party provided anything further, my decision remains as follows:

This service is not a court and my role here is to resolve disputes informally. So, whilst I've read and considered the submissions of the parties – including the detailed submissions by Miss G in response to our investigator's view – I won't be commenting on all of these. I will focus on those matters I consider central to the dispute.

It's also important to note at the outset that Halifax isn't the supplier of the holiday. Its role is as a finance provider – and it is this role which I am considering here. So, my focus in deciding what's fair and reasonable is how it responded to the claim Miss G made to it, and whether in the particular circumstances this was fair and reasonable.

Section 75

In considering what is fair and reasonable, amongst other things, I need to have regard to the relevant law – I think both section 75 and the Consumer Rights Act 2015 (the 'CRA') are relevant. The CRA makes it clear that, provided certain conditions are met if services are not delivered with reasonable skill and care this is a breach of contract. I've also had regard to The Package Travel and Linked Travel Arrangements Regulations 2018 ('PTR') which, makes a tour operator liable for the 'improper performance' of the service provided under a package holiday.

Miss G's main point is the guide told her (and her companion) that she was no longer part of the group, and she considers this meant T was in breach of contract as, in her view, it had prematurely cancelled the holiday with ten days still remaining. She said the guide excluding her and her companion from the trip followed a number of disagreements with other members of that group – Miss G considers the guide had taken the side of other group members over herself and her companion. So, Miss G says T is liable for her cutting short her holiday due to these issues and she wanted a full refund of the cost of the holiday.

I can see the guide drafted a report setting out her version of events for T which Miss G then passed on to Halifax along with points she disputed. According to this report the guide told T that: *"I want to remark that [Miss G's companion] behaviour is unacceptable and in situations like these he should leave the trip" ...*. And: *"...once we returned form (sic) the community, I met with [Miss G and her companion], I asked them how were things, and [Miss G's companion] was very upset, I told him that my Manager...would be contacting them for further assistance, but [Miss G's companion] started saying "is this one of your relatives?". I really didn't understand what that meant."*

Miss G refers to video recordings of what happened when speaking with the guide – I can't see these were provided to Halifax. Miss G said this was because Halifax hadn't told her how to send in this electronic information. But she did set out in her claim to Halifax a description of the contents of what was discussed with the guide which were on these recordings. So, I think Halifax should reasonably have taken this into account. According to Miss G, the guide confirmed she and her companion are no longer on the trip, I can see Miss G responded to the guide by saying: *"You're definitely telling me we are not on this trip anymore, you just kicked us off?"*. The guide responded by saying that this wasn't what she was saying. And went on to say her manager had advised the guide not to speak to Miss G (and her companion) and it would be the manager who would deal with the complaints raised.

I appreciate there are differences of opinion from the guide and Miss G about what exactly happened and who was at fault. I should add I'm very aware that English wasn't the first language of the guide and there may well have been a misunderstanding, but I think it was made reasonably clear to Miss G that she wasn't being 'kicked off' the holiday. I note Miss G

did correspond with T at around the same time as the interaction with the guide. I can't see at any point, that she was told by T to leave the holiday. So, I don't think Miss G has provided persuasive evidence that T removed her (and her companion) from the holiday – rather from all the evidence I've seen, I think, on balance, she decided to leave due to the disagreements she had with the other members of the group.

I've also considered whether T was in breach of contract in respect of the events that led to Miss G deciding to leave the holiday when she did. In this regard, I've reviewed T's terms and conditions - in the absence of being provided with any, I've used archived webpages of these terms showing on T's website as of 16 March 2023. I think these were reasonably available to Halifax, so I'll consider them. Amongst other things, these say: *"If you're in difficulty whilst on holiday and ask us to help we will provide appropriate assistance, in particular by providing information on health services, local authorities and consular assistance; and helping you to find alternative arrangements and any necessary phone calls/emails. You must pay any costs we incur, if the difficulty is your fault."* This mirrors the requirements under the PTR.

Whilst I think the difficulties Miss G experienced with other members of the group was unfortunate, it's hard to say that T was responsible either in relation to the events leading to this disagreement or not offering to assist her with this situation in line with its terms and conditions. Miss G points to the guide refusing to speak with her when approached showing T didn't provide the support it should've done. However, the guide explained the matter had been escalated to her manager - it appears Miss G had left the hotel before having an opportunity to speak with the manager about the situation. In any event, I think in terms of helping Miss G, T was best placed to do this and from what I can see, it didn't fail to do so in line with its terms or what was required from it under the PTR.

I appreciate Miss G says it was the guide who was the catalyst for the conflict between herself (and companion) and other members of the group. But from what she describes it was other members of the group who took it upon themselves to address behaviour they thought was unacceptable particularly in regard to the treatment of the guide. I should note Miss G's own testimony supports this view. And I can understand why she was very upset by what took place and strongly denies either she or her companion did anything wrong. She does say her companion did argue with another member of the group. However, she says this was only after he was provoked because he felt Miss G was being bullied.

I think all of this goes to show the complexity of the situation here. The disagreements seem to have quickly escalated with those involved all blaming each other. This service and the financial business (unlike a court) is not able to compel witnesses for cross examination either – which makes getting to the bottom of things much more challenging. It's very difficult under these circumstances to know what support T could've provided beyond what it offered to do when she contacted it. It doesn't seem to me, that there's sufficient evidence to suggest T didn't act with reasonable care and skill in regard to this matter.

Miss G raises a number of other issues around T's agents. In her view she considers they were all part of the same family. She also says T 'lied' to the TA about the refund it had provided which, in fact, related to another holiday which was cancelled. Whilst I appreciate Miss G has very strong feelings about T and how it operates, I don't think I can hold Halifax liable for them under a connected liability claim as they don't amount to either a breach of contract or misrepresentation.

I've also considered what Miss G said about the quality of the hotel. However, I note much of what she highlights such as issues with the sauna and cracks around the window in her room, weren't presented to Halifax as part of her claim. So, whilst I take on board what Miss G says about the quality of the hotel – and what was promised by T beforehand – I don't think Halifax

acted unfairly for not considering these issues. That said, I can see Miss G did raise the matter about the safe not working in her room and there were no facilities to make tea. But even if I were satisfied there'd been a breach of contract in this regard, the PTR, which allows for compensation in certain circumstances, says the tour operator has a reasonable period to put things right. And it's unclear whether these issues would've been put right within a reasonable period given Miss G had decided not to stay. I don't think I can fairly say any compensation is due in this regard.

Miss G says Halifax only gave her claim a ' cursory glance '. But it did explain why it wasn't honouring the claim and I've not seen anything to suggest it didn't properly consider the matters Miss G presented to it. I also think it gave her an opportunity to provide evidence she thought was relevant to her claim and did send a chaser when it received no response. I think Halifax gave Miss G a fair opportunity to provide whatever information she thought was necessary to support her claim. As noted above, Miss G experienced difficulties uploading the video evidence (or wasn't told how to do so). However, as I've already said, having considered the video evidence particularly in regard to what Miss G says the guide said, I don't think this would've changed the outcome even if Halifax had received it.

Chargeback

It doesn't appear that Halifax attempted a chargeback under the Mastercard scheme – but considering the nature of the claim as I've described it above, I think section 75 wasn't an unreasonable route for it to have focused on. In any event, I think even if Halifax had initiated a chargeback under the Mastercard scheme, it's unlikely to have been successful. I say this because I don't think the relevant conditions were met. I'll explain why.

Miss G first asked Halifax to consider matters under section 75 on 15 March 2023, which is around the time the holiday came to an end. Under the most relevant reason code 'service wasn't as described' the timeframe for raising a chargeback is 120-calendar days from when the service ceased. So, a chargeback would've needed to be raised no later than 13 July 2023 – even taking into account when the holiday was actually due to end which was on 23/24 March 2023, the date for submitting a chargeback would be 21/22 July 2023. In this case, Miss G had asked Halifax to put matters on hold whilst her dispute was ongoing via the TA. This was a requirement of the TA in that a dispute couldn't be raised while there was an ongoing section 75 claim or chargeback. By the time Miss G had asked Halifax to consider things again, which seems to be, on or around 24 July 2024, this was already outside of the 120-calendar day timescale for raising a chargeback.

Even if the timeframes had been met, having considered the reasons for which a chargeback can be raised under Mastercard's rules, I think it unlikely a chargeback would have been successful. I say this because Miss G chose to leave the holiday – T didn't cancel it and as far as I can tell, its terms didn't allow for a refund under these circumstances. I know Miss G's companion did successfully obtain a refund via his bank under the relevant chargeback scheme but that doesn't mean Halifax acted unfairly in not raising one here. There's no guarantee the same outcome would've been reached. For example, chargebacks can succeed if the merchant fails to put a defence in on time. And it may also depend on which scheme through which the chargeback was raised (e.g. Visa or Mastercard). Overall, based on the facts as presented to it, I can't reasonably or fairly say Halifax acted incorrectly by not initiating a chargeback.

For all the above reasons, I'm not upholding this complaint. I appreciate Miss G will be disappointed with this outcome. As noted above, my role is to look at things informally. So, if Miss G 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 all the reasons set out above, I'm not upholding this complaint.

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

Yolande Mcleod
Ombudsman