

complaint

Mrs P complains that Bank of Scotland plc (trading as Halifax) won't refund her the money she spent on a service she didn't receive.

background

In May 2016 Mrs P used her debit card to pay £495 to a company which promised to help her set up her own business. She attended an induction day in June but then a number of issues began to emerge. Orders weren't delivered to the correct address, the commission rate was much lower than she expected and there was little customer service. She kept going because she wanted to make her business work but after she accidentally posted a comment into the wrong online group she was removed from the company initiative. And the company closed her business down in December 2016. The company has now been liquidated.

In March 2017 Mrs P asked Halifax to raise a chargeback because she didn't get the service she paid for. In its final response letter in September 2017 Halifax said she was out of time under the chargeback rules because the transaction date was 26 May 2016, and the date she stopped using the service was in December 2016, which was out of the 120 day timescale. In its response to us it said Mrs P had first asked about raising a dispute on 22 March 2017. But during the phone call Mrs P said she was aware of all the issues in August 2016. So it thought she was outside the 120 days allowed under the chargeback scheme. Mrs P contacted the bank again in August 2017 because she thought she might be eligible under the 540 day rule. Halifax said this time limit didn't apply to her case so she came to us.

Our investigator didn't recommend Mrs P's complaint should be upheld. She said the appropriate time limit within which Mrs P could raise a chargeback was 120 days. And she thought Mrs P was outside that time limit.

I issued a provisional decision and in it I explained why I thought Mrs P's complaint should be upheld and why Halifax should pay her compensation. I asked both parties to respond. Halifax didn't give a formal response in the extended time given to it. But it did say that it thought my decision was not based on the chargeback the customer attempted to bring. It thought the £495 was a registration fee and not for ongoing service. And it seemed to think that Mrs P must've received some service and commission.

my findings

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

I note that the company Mrs P paid her money to has now gone into liquidation but that's not a good reason for Halifax to refuse to do a chargeback. It's the company's bank, or the business which gave it the facility to accept card payments, which is liable for the chargeback.

Halifax says this was an investment and not an ongoing service but I disagree as the merchant was supposed to provide various services to help Mrs P establish her business. It was a fee that provided Mrs P with a service to help her set up her own business.

Mrs P first contacted Halifax about raising a chargeback on 22 March 2017. So, to be in time under the 120 day rule, she needed to have realised on or after 29 November 2016 that she wasn't receiving the services she'd paid for. I can see from some of the email correspondence

between Mrs P and the company that in October 2016 she was chasing orders and in November she was chasing her commission. But by December her emails indicated she was dissatisfied with the responses she was getting from the company. And it was in December 2016 that the company closed her down.

Halifax says the dispute Mrs P raised was about the commission the merchant was paying her that she thought had been misrepresented. And she knew about that in the summer. But I've listened to the phone call Mrs P had with Halifax in March 2017 and her dispute was more than being dissatisfied with the commission. It was about not receiving the services she'd paid for. She bought into the company in May 2016. She received the terms and conditions on 14 June 2016. She realised in July/August 2016 that there was a problem with her commission. But she kept going because she wanted to resolve the issue and continue working with the company. So I don't agree with Halifax that there is a change in the chargeback Mrs P attempted to bring.

It seems to me that until December 2016 Mrs P still hoped the business initiative would work and she was trying to engage with the company. But by December she was losing patience. The company took exception to an online post and closed her business. So I take the view that time should run from December 2016. It was at that stage she lost her chance to recoup her initial outlay. And in its final response letter Halifax accepts she stopped receiving the service in December 2016. She first contacted Halifax in March 2017 at which stage she was still within the 120 days timeframe. She didn't receive the service promised to set up her own business because the company closed her down within a few months. So I think Halifax was wrong not to have attempted the chargeback.

But it wouldn't be fair for me to ask Halifax to process the chargeback as it's no longer able to do that. Mrs P received very little of the service she paid for. So if Halifax had processed the chargeback in time I think there would've been a reasonable chance it would've been successful. So Halifax should pay the initial payment of £495 to Mrs P.

Halifax has paid Mrs P £125 for the inconvenience and distress it's caused and an additional £24 for the cost of her phone calls. I think that should be increased to £250 (plus £24) for the failure to give her the right information in March 2017 when she initially asked about the possibility of a chargeback. And for the continuing poor service that Halifax identified in its final response letter to her and in its response to us.

my final decision

My decision is that I uphold this complaint.

In full and final settlement I order Bank of Scotland plc (trading as Halifax) to pay Mrs P:

- £495 compensation for not attempting the chargeback and
- an additional £125 for the poor service it's given her.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 3 April 2018.

Linda Freestone
ombudsman