

## The complaint

Mrs C complains Bank of Scotland plc trading as Halifax has not refunded a payment made by debit card to a company offering timeshare relinquishment and claim services. Mrs C is represented in her complaint by a claims management company. Where I refer to things said or done by Mrs C in the context of her complaint, this should be taken to include things said or done by her claims management company.

## What happened

Mrs C says she was contacted by a company I'll call "AD" and offered services in relation to timeshares she and her husband (who has since passed away) had purchased some years ago. Mrs C says she received no paperwork from AD to show what it had agreed to do, but that verbally she was told AD would arrange for money paid in respect of the timeshares to be claimed back, and arrange for her release from said timeshares. Mrs C says AD put her under a lot of pressure and she agreed to pay £7,500 in respect of the company's services. She and her late husband made payments to AD through a mixture of sources:

- £1,500 on a credit card with another provider on 23 September 2020
- £2,000 on a credit card with another provider on 30 September 2020
- £4,000 on a Halifax debit card from a joint bank account on 30 September 2020

Mrs C says AD didn't carry out the agreed work and she considered it had made misrepresentations to her, and so on 15 March 2022 she contacted Halifax in an attempt to obtain a refund of the £4,000. I understand she is separately claiming against her credit card provider under section 75 of the Consumer Credit Act 1974, in respect of the other payments to AD.

Halifax ultimately said it couldn't help Mrs C obtain a refund, stating that it was too late to claim the money back via the "chargeback" system. She subsequently complained about this decision and then referred her complaint to the Financial Ombudsman Service for an independent assessment.

One of our investigators looked into the complaint. She came to the following conclusions:

- Whether or not a chargeback would have been successful (and therefore that Halifax should have attempted to obtain a refund for Mrs C via this route) depended on the rules of the Visa card scheme.
- The rules said a chargeback needed to be attempted within 120 calendar days of the last date the cardholder expected to receive the services in question, not to exceed a total of 540 days from the date of the original payment.
- It was unclear when Mrs C was supposed to have received the services from AD by, as there was no written contract. It had been suggested that the services were meant to have been completed within 12 months of her final payment, which would have

been 30 September 2021. 120 days from this date would have been 28 January 2022, meaning Mrs C contacted the bank too late.

- Mrs C had been within the 540 day “long stop” timeframe at the point she contacted Halifax, by 9 days. But the information she’d provided at this point wouldn’t have been enough for a chargeback to be attempted. The contract between Mrs C and AD would have been a crucial piece of information which would have enabled the parties to establish what AD had promised to deliver and by when.

Mrs C asked to appeal our investigator’s assessment, so the case has been passed to me to decide. Mrs C’s claims management company has since provided a sample of a contract some of its other clients had signed with AD, as an example of what it believes Mrs C’s contract would have looked like. It has said the 540 day time limit for chargebacks should be measured from a year after Mrs C had paid her initial deposit to AD.

### **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’m in agreement with the conclusions our investigator reached, and for essentially the same reasons.

As our investigator observed, a chargeback would have been the only route Halifax could have pursued to obtain a refund of the £4,000, given it was paid by debit card. Chargebacks are a mechanism to reclaim funds which have been paid via a plastic card, and they are subject to the rules of the card scheme whose logo appears on the card. In Mrs C’s case, that’s the Visa card scheme.

I would expect a bank like Halifax, when approached by a customer seeking a refund of a debit card transaction, to attempt a chargeback where this would be compliant with the card scheme rules and have a reasonable prospect of succeeding.

The situation Mrs C described – that she had paid for services which were to be completed by a specific date, but this had not happened – is one which is covered under Visa’s rules. The rules at the relevant time set specific time limits for the submission of such chargebacks. Our investigator correctly identified these rules stated that a chargeback must be attempted within 120 days of the last date the cardholder expected to receive the service, so long as this is no longer than 540 days from the date of the card payment itself.<sup>1</sup>

Given there is no written record of what was agreed between Mrs C and AD, it is unknown what time was specified for the performance of the services. In the example contract Mrs C’s representatives have supplied, the time specified is 12 months from the date of the balance payment. If this was true of Mrs C’s agreement with AD (Mrs C’s representatives insist that it was) then the last date she’d have expected the services to have been completed by would have been 30 September 2021. 120 days from this date would have been 28 January 2022, but Mrs C didn’t contact Halifax until, at the earliest, 15 March 2022. So, by the time Mrs C contacted the bank it was unfortunately already too late for it to attempt a chargeback in compliance with the card scheme rules, and so it wasn’t unfair or unreasonable of Halifax to decline to attempt a chargeback on Mrs C’s behalf.

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<sup>1</sup> The current rules, which do not differ, at the time of writing, in material respects to those in place at the time Mrs C approached the bank, can be found on Visa’s website, on page 762 of the following document: <https://www.visa.co.uk/content/dam/VCOM/download/about-visa/visa-rules-public.pdf>

Mrs C's representatives have stated the 540 day time limit should have started on 23 September 2021. However, this is incorrect and reflects a misunderstanding of the card scheme rules.

I noted earlier that Mrs C has an ongoing complaint against her credit card provider in respect of a claim she brought under section 75 of the Consumer Credit Act 1974 relating to the other payments made to AD. She may wish to consider including as part of that claim or complaint, the £4,000 paid on the Halifax debit card.

### **My final decision**

For the reasons explained above, I do not uphold Mrs C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 7 February 2024.

Will Culley  
**Ombudsman**