

The complaint

Miss J complains that Bank of Scotland plc trading as Halifax (Halifax) won't refund money she paid to a travel company.

What happened

What Miss J says:

Miss J was searching for flights and was contacted by someone from a travel company (which I will call 'A').

Miss J agreed to book the flight – which was due to leave on 12 June 2023. She agreed to pay the cost of £600 in instalments. She paid the first three as shown:

Date	Payment type	Amount
14 April 2023	Faster online payment to A – mobile banking	£100
27 April 2023	Faster online payment to A – mobile banking	£200
15 May 2023	Faster online payment to A – mobile banking	£200

After the third payment, A advised they weren't flying to the destination anymore and agreed to a refund, to be paid on 16 June 2023. But nothing arrived. Miss J contacted Halifax on 3 July 2023 - she said she'd been scammed. She said the money should be refunded under the Contingent Reimbursement Model (CRM) Code.

Miss J says this was money she can't afford to lose – especially given the increased cost of living.

What Halifax said:

Halifax said:

- This wasn't a scam and therefore isn't covered by the Contingent Reimbursement Model (CRM) Code. This was because the Code is to deal with scams, and this was a civil matter. A scam is when customers are tricked into authorising a payment to an account they believe belongs to a legitimate payee but is in fact controlled by a fraudster.
- The travel company (A) went into liquidation on 23 May 2023. Before that, it was a genuine company which was trading.
- This was therefore a civil matter, and one which has to be resolved between Miss J and the company A.

Our investigation so far:

Miss J brought her complaint to us. Our investigator also said this was a civil matter as:

- The company A had been in business since 2006 – as shown at Companies House.
- A ceased trading and as a result, Miss J didn't get a refund.
- Miss J couldn't pursue a chargeback – as the payments were made online – and chargebacks can only apply if Miss J had used a debit card.

Miss J asked that an ombudsman look at her complaint, and so it has come to me to make a final decision.

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 a first step, I need to decide whether this was a scam (where a scammer takes money from a customer with no intention of providing any services or returning the money to them) or a civil dispute (where a payment is made to a legitimate trading company or business, but the promised services or products don't materialise, or are sub-standard).

If this was a scam – then banks (including Halifax) must follow industry and regulatory guidance to check certain payments and in some circumstances, protect customers by stopping the payments and contacting customers about them. And where banks haven't followed the guidance, they can be asked to refund customers. This is included in the Contingent Reimbursement Model Code (CRM Code) – which I see Miss J has quoted here.

But where payments are made to a valid business for services to be provided; then such principles and the Contingent Reimbursement Model Code (CRM Code) doesn't apply. This is then classed as a civil dispute, and for which banks normally have no liability.

I therefore looked at Miss J's complaint with this in mind. I can see this is clearly a civil dispute between Miss J and company A. I say that as:

- Companies House shows that A was a limited company and was trading since 2006; but went into liquidation on 23 May 2023. This was unfortunately only eight days after Miss J made the third payment.
- There appears to be a genuine transaction for Miss J to be provided with the flight, but A suffered financial difficulties and couldn't fulfil it.
- This doesn't mean that Miss J was 'scammed' out of her money – but she is out of pocket due to the fact that A has gone out of business.

So here, Halifax don't have any responsibility to refund the money to Miss J. If she had made the payments using her debit card, she could've asked Halifax to try to get a 'chargeback' – which may have been possible under the card scheme rules (i.e. Visa or Mastercard); or if she had paid by credit card, she may have been able to ask for a refund under section 75 of the Consumer Credit Act. But here - she made online payments from her bank account, so unfortunately these options aren't possible.

The only way forward for Miss J is to contact the liquidator of A and lodge a claim as a 'creditor' of the company (that is – people who are owed money by A when it went out of business). However, Companies House doesn't show who the liquidator is – I can only suggest that Miss J contacts the accountants of A (they are shown in the Companies House records) and see if they can help. But – that doesn't mean to say that Miss J will get any money back that way.

I know this will be disappointing for Miss J, and I'm sorry to hear she has lost money, but in this case, Halifax aren't liable for the payments she made, and I'm not asking them to do anything here.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss J to accept or reject my decision before 17 January 2024.

Martin Lord
Ombudsman