

The complaint and what happened

Mr H complains that Bank of Scotland plc, trading as Halifax, won't reimburse transactions he didn't make or otherwise authorise.

The full details of this complaint are well known to both parties, so I won't repeat them in full here. Instead, I'll recap the key points and focus on giving reasons for my decision:

- Mr H was looking to update his car's satnav device. He looked online and came across a link that required him to input some details. He was then contacted by someone purporting to be from a well-known satnav brand. He was told to take the SD card from his car and place it into his laptop. He was also told to download some software to help with the update and that it would cost £3. Mr H thinks he gave the caller his card details to make payment and explained his online banking details were pre-saved onto his laptop.
- Shortly after downloading the software, Mr H says his screen went blank, but he could see the cursor moving on the screen. He became suspicious about what was happening and checked his online banking and noticed he had two payments pending to cryptocurrency exchanges – one for £1,000 and another for £400.
- Mr H called his bank as the payments were still pending and so thought they could be stopped. However, they couldn't be. Halifax refused to reimburse the transactions as it said he had previously been warned not to share his card details or personal information over the phone, as a result of two previous scams. And so it considered Mr H had been negligent.
- Our investigator upheld the complaint in part. As Mr H had likely provided his card details in order to make payment, she was satisfied the first transaction for £1,000 would be considered authorised. However, she didn't think the second payment was and so she asked Halifax to reimburse that transaction and add 8% interest. Halifax agreed the outcome, but Mr H didn't. Although Mr H understood the outcome, he didn't think it fair and asked for 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.

Having done so, I agree with the conclusions reached by the investigator for the following reasons:

- In line with the Payment Services Regulations 2017 (PSRs), Mr H isn't liable for payments he didn't authorise or otherwise consent to, unless he failed with intent or gross negligence, to comply with the terms of the account or keep the account details safe.
- I've considered whether Mr H authorised the transactions that have been disputed, and so in line with the PSRs, whether he completed the agreed steps in the form and procedure required to make the payments or gave someone else consent to complete them.

- The terms and conditions don't particularly set out how an online transaction would be made. Our investigator set out the likely process of needing the card details, the expiry date and the three digits on the reverse of the card. Neither party has disputed that and so I proceed on the same basis.
- I understand Mr H gave his card details to another party during a call to carry out the transaction. He did so to pay the £3 charge to update his satnav. I'm satisfied that the entering in of his card details means the payment was authenticated. And as the agreed form and procedure was used to make the payment – the entering of the card details needed to complete the transaction, Mr H consented to the payment; he provided his card information to another party in order to complete the transaction. Although Mr H was tricked which resulted in a higher payment than he thought being made, under the PSRs that doesn't invalidate the consent he gave when providing his card details. For that reason I agree with the investigator that the first transaction for £1,000 was authorised by Mr H and so he is liable for it.
- I'm not persuaded that providing consent for the first payment, meant the second payment was also authorised; Mr H only understood and gave consent for one transaction to be carried out. I therefore agree with the investigator that the second payment for £400 wasn't authorised by Mr H, or otherwise consented to. I'm also not persuaded that providing card details for what is believed to be a genuine transaction (£3 for updating the satnav) amounts to gross negligence or a failure with intent to keep account details safe; such transactions are carried out thousands of times a day. Halifax has agreed to refund this transaction and add interest.

My final decision

For the reasons given, my final decision is that I uphold this complaint. I require Bank of Scotland plc, trading as Halifax, to:

- Refund Mr H £400 (less any funds since recovered); and
- Add 8% simple interest from the date of loss to the date of settlement (less any lawfully deductible tax).

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 18 May 2022.

Claire Hopkins
Ombudsman