

The complaint

Miss G complains about the actions of Bank of Scotland plc trading as Halifax, in relation to cheque payments she made from her current account.

What happened

I previously issued a provisional decision on this case. It was my intention to come to a different outcome to the Investigator, so I wanted to give both parties the chance to respond with any further information they wanted me to consider before I came to my final decision on the matter.

I have copied my provisional decision below, which also forms part of this final decision.

“Miss G says she instructed a builder to carry out some works on a new property she’d bought. The builder asked Miss G for a payment of £15,000, which Miss G sent by cheque. Miss G says Halifax didn’t allow the cheque to be cashed by the builder because the cheque had been incorrectly completed.

Miss G says she then gave the builder a second cheque, which Halifax didn’t pay because her handwriting didn’t match other examples it had of her handwriting. Miss G says she was assured by Halifax that this cheque wouldn’t be paid and so she wrote a third cheque to the builder which cleared.

Miss G says she then found out that the second cheque she wrote to the builder had been re-presented and had also cleared – meaning the builder had been paid twice. Miss G says that the builder wouldn’t answer any of her calls, and the work to her new property hadn’t been completed which meant she couldn’t move to her new house.

She contacted Halifax and was told it would recall the second cheque and it asked her to call in three days’ time to find out if the recall had been successful. Miss G says that she spent a lot of time on the phone trying to find out if the cheque had been recalled, and later found out that Halifax’s attempts to recall the cheque had been unsuccessful. The builder later transferred a portion of the £15,000 back to Miss G, but not the full amount.

Miss G then instructed new builders, who asked for a payment of £10,000 to start the works – again Miss G paid this by cheque, which wasn’t paid by Halifax, this was due to a signature mismatch. A second cheque for £10,000 was written out the new builders which was also returned as unpaid. This resulted in the builder not starting the work and causing further delays to the building work.

Miss G says she is out of pocket by around £70,000 due to the actions of Halifax and the builder. She says she told Halifax that she was unable to move into her new address and asked for it to correspond with her at her previous address. However, Halifax sent her letters about the possibility the cheque could be represented to the new address. Miss G also said that Halifax sent other letters to her new address despite Miss G letting it know on three occasions that she hadn’t yet moved there.

Miss G says that she has suffered a great deal of trouble, stress and expense as a result of Halifax's actions.

When Miss G initially complained to Halifax, it offered to pay her £40 for poor service. But it then later changed its decision. It agreed to compensate her an additional £500 and pay her £7,348.44 – which was the difference between the amount the builder had returned and the cheque value (£15,000). Halifax said the £10,000 cheque it didn't pay was done so correctly because Miss G's signature didn't match what it had on its records. It also explained that it thought much of the impact on Miss G was down a civil dispute with the builder and not because of its actions.

Our Investigator looked into things for Miss G, but they didn't uphold her complaint. They agreed that Halifax's actions had caused Miss G to write another cheque for £15,000 to the builder. But they felt that Halifax had done enough to put things right for Miss G. They also agreed that the signature on the cheque for £10,000 didn't match its records and so this was fairly unpaid.

Miss G responded to say that she didn't think the settlement offer Halifax had provided her with was fair, and she wanted an Ombudsman to look into her complaint. Because Miss G didn't agree with the Investigator, the complaint has been passed to me to make a decision on the matter.

What I've provisionally 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.

Firstly, I'd like to express my empathy for Miss G's situation. It's clear that she's been through a very difficult time which has, understandably, caused her much upset. In reaching my conclusion, I don't wish in any way to downplay or disregard the situation Miss G has found herself in. I've no doubt it was a truly horrible time for her. And I'm sure the impact of the error caused by Halifax has made an already bad situation much worse.

But being independent means I have to take a step back and consider what both parties have said. I can only ask Halifax to reimburse Miss G's losses if they were as a result of something it had done wrong.

Having looked at all of the information available to me, I think Halifax needs to do more to put things right for Miss G, but I am aware that what I intend to ask Halifax to do, isn't going as far as Miss G would like.

£15,000 cheque payment

Both parties agree that Miss G was given misleading information which led to her writing two cheques to the builder for £15,000 – which subsequently meant the builder was paid twice.

I think it was always Miss G's intention to pay the builder £15,000 – because this is what the builder wanted for the work – and Miss G accepted and paid this in good faith under the impression that the works would continue. Unfortunately, it's become clear that the builder didn't continue with the works despite the payment having been received by them. And so, I agree Miss G has lost out here. But I don't think the losses for the initial payment of £15,000 are as a result of something Halifax has done wrong. I think this is down to a dispute between Miss G and the builder, which Miss G will need to pursue down other avenues. So, I can't agree that Halifax needs to do anything more in relation to the initial payment of

£15,000.

Both parties agree that the actions of Halifax resulted in Miss G making a second payment to the builder of £15,000. I agree Miss G wouldn't have written another cheque if she had been given better information by Halifax. So here, Halifax needs to put Miss G back in the position she would have been in had it not paid the second cheque. I can see that the builder has returned some of the money from this cheque payment, and Halifax has paid Miss G the difference. But I don't currently think this is enough.

The £15,000 cheque was paid in August 2021. And I can see the builder returned some of the funds at the end of August 2021. So Miss G was out of pocket by £7,348.44 until Halifax reimbursed her the difference on 5 May 2022.

To put things right here, I think Halifax should pay Miss G 8% simple annual interest on the £15,000, from the date the cheque was paid to the builder, until the amounts were repaid to Miss G. This is to compensate her for the time she was out of pocket as a result of Halifax's error.

Unsurprisingly, Miss G was very worried about the fact she had lost out on the second cheque being paid. And I can also see she's made a number of calls to Halifax about the issue. I've thought carefully about the impact this has had on Miss G, and I have also considered our general approach to distress and inconvenience payments when thinking what might be a suitable amount for Miss G to be awarded. Halifax has already offered Miss G £540 to compensate her for this, and based on everything I've seen, I think this is enough to compensate Miss G for what Halifax did wrong.

I can see that Miss G has referred to other losses she incurred, which she says includes extra costs for rent as a result of building works being delayed, having medical operations cancelled as a result of not having moved into her new home – but I don't think I can hold Halifax responsible for these losses. I think these losses are more likely to have been incurred as a result of the builders and not something Halifax has done, so I won't be asking Halifax to compensate or reimburse Miss G for these losses.

Unpaid £10,000 cheques

Halifax say this cheque wasn't paid because the signature didn't match what Halifax had recorded on file for Miss G. Halifax has an obligation to check things like signatures on cheques, to ensure that the cheque is legitimate.

I've looked at the signature Halifax holds on its records for Miss G, and I've looked at the signature from the unpaid cheque. There does appear to be a difference in the two signatures, so I think it was right of Halifax to have questioned the legitimacy of the cheque with Miss G.

I can see that Miss G then wrote out a second cheque to the new builders which wasn't paid. Halifax has said this cheque wasn't paid because an alteration on the cheque required Miss G's signature – Halifax say this is likely down to the 'S' in one of the words on the cheque.

I've looked carefully at the cheque, and it isn't clear to me why this cheque wasn't paid. The copy of the cheque I have seen doesn't appear to have been altered, however I have only seen a copy and so it's possible the original does show an alteration.

Halifax say that the company who cleared the cheque should have contacted Miss G direct before returning the cheques as unpaid. Because this contact was made by the cheque clearing company, Halifax says it doesn't have any evidence to show whether the calls took

place or not.

I've thought carefully about what happened here. And while it's possible Halifax could have done more to contact Miss G about the returned cheques, I have also considered that there were other ways that Miss G could have paid the builders to avoid delays to the works she needed completing. I'm not aware of any reason why the funds couldn't have been transferred either by going to branch, online or by using telephone banking.

Having taken everything I've seen so far into account, I won't be upholding this part of Miss G's complaint."

Neither party responded to my provisional 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 neither party responded to my provisional decision, I've assumed both Miss G and Halifax has nothing further to add. Because of this, I see no reason to depart from the findings made in my provisional decision.

Putting things right

To put things right, Halifax should compensate Miss G for the time she was out of pocket, to do this it should:

- Pay Miss G simple interest at 8% per annum on £7,651.56 from the date it was paid to the builder, until the builder repaid this to Miss G; and
- Pay Miss G simple interest at 8% per annum on £7,348.44 from the date it was paid to the builder, until it was reimbursed by Halifax. **

**HM Revenue and Customs requires Halifax to deduct tax from the interest payment referred to above. Halifax must give Miss G a certificate showing how much tax they've deducted if she asks them for one.

My final decision

For the reasons set out above, I uphold Miss G's complaint. I order Bank of Scotland plc trading as Halifax to put things right for Miss G by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss G to accept or reject my decision before 1 December 2022.

Sophie Wilkinson
Ombudsman