DRN-4024875

Financial Ombudsman Service

The complaint

Mr P complains that Bank of Scotland plc, trading as Halifax, did not treat him fairly when it recovered an overpaid refund.

What happened

Two of Mr P's Halifax accounts were targeted by fraudsters who took £490 from him. Mr P quickly realised he had been subject to a scam. He contacted Halifax and it agreed to refund everything that had been taken. However, instead of refunding £490, Halifax refunded £840 over several transactions instead.

Mr P then called Halifax to say he thought it had made a mistake and had paid him too much back. Halifax told him it hadn't made a mistake and that even if it had, it wouldn't seek to recover any money from him. However, Mr P then received a letter from Halifax to say it had paid him £350 too much and it was going to take that money back. The funds were debited from Mr P's account on 18 February 2022.

Mr P complained to Halifax. He said he thought Halifax was questioning his integrity. He also said taking the money back all at once had caused financial difficulties and had affected his ongoing and longstanding health condition. Halifax recognised that it had made mistakes and offered to pay £150 to Mr P to compensate him for those errors.

Mr P did not accept Halifax's offer and so he complained to this service. Our investigator thought Halifax's offer of £150 was fair. Mr P did not agree with that view. He said he felt Halifax had accused him of fraud and that he'd had to sell property to bring his overdraft within its limit. Our investigator asked Mr P to provide some more information about what he'd had to sell, but no reply was received.

As Mr P did not agree with our investigator's view, the matter was passed to me for an ombudsman's decision.

I issued a provisional decision because I thought Halifax should pay a larger sum of compensation to Mr P. I said:

> "As things stand, I intend to uphold the complaint and require Halifax to pay a total of £350 in compensation to Mr P. I'll explain why below.
>
> Halifax accepts that it made a mistake when it refunded more than it should have done to Mr P. It also accepts it made a further mistake when it assured Mr P that even if it had paid him too much, it would not seek to recover any money it had overpaid. I know Mr P was upset because he thought that, by recovering the overpaid refund, Halifax was accusing him of wrongdoing. However, I can see that Halifax accepts it made the error and that Mr P had not caused it.
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> As Halifax accepts it made a mistake, I have considered the impact of that on Mr P.
>
> As I said above, Mr P contacted Halifax when it first paid him too much to check

whether the amount was correct. Halifax assured Mr P that it was. He then relied on that reassurance and I can see from the bank statements Halifax provided that the money was then steadily spent from his account.

It looks as though Halifax decided on 4 February 2022 that it was going to recover the overpaid £350 from Mr P on 18 February 2022. It appears Mr P received a letter about that on 8 February 2022. He effectively had ten days' notice that Halifax would deduct what was a fairly significant sum from his account all at once.

Mr P has what I understand to be an ongoing and longstanding health condition. I can see from Halifax's internal notes that it was aware of these health matters. It had noted he was vulnerable.

Even though it was aware of Mr P's vulnerability, I have not seen anything to suggest that Halifax considered the impact its decision to recover the overpaid refund in such a short period of time would have on Mr P. I can see that debiting the money from his bank account on 18 February 2022 took him very close to his overdraft limit almost two weeks before his monthly salary would have been paid. In addition to that, Mr P also told Halifax that he was only on half pay from his employer at that time.

I can see how being unexpectedly very close to an overdraft limit almost two weeks before a salary payment is due would be very stressful, particularly on a reduced salary. The amount Halifax took back was almost a third of Mr P's income that month. I accept that he would have been worried about how he would meet his outgoings for the rest of the month. I can also see how that stressful situation was exacerbated for Mr P because of his health conditions. In his telephone call to Halifax on 8 February 2022, Mr P set out in detail the impact Halifax's recovery decision was having on his health.

Mr P also told us that he had to sell property online so that he didn't exceed his overdraft limit. Unfortunately, Mr P didn't give us any further information about what that property was.

However, I can see he transferred £300 into his Halifax account on 21 February 2022 and the nature of that transaction suggests it could have come from an online sale. On that basis, I accept that it is possible Mr P did have to sell property in order to have enough funds to live on.

Putting all of this together then, Halifax mistakenly £350 refunded too much to Mr P after he'd been targeted by fraudsters. It then assured him it hadn't made a mistake and even if it had, it wouldn't seek to recover anything from him. Mr P relied on that reassurance and spent the additional funds he'd been paid. Halifax then gave Mr P a limited amount of notice that a significant sum of £350 would be debited from his account. It didn't consider what the impact would be on Mr P even though it knew he had a health condition that made him vulnerable. As a result of Halifax's mistake, Mr P's health deteriorated, and he may have had to sell property to avoid exceeding his overdraft limit.

On that basis, my provisional view is that the £150 Halifax has already paid to Mr P is not sufficient to put things right in this case. It seems to me that recovering the funds at short notice and without consideration of his wider circumstances caused Mr P some considerable distress, upset and worry about his financial position when Halifax knew he was vulnerable.

As things stand, I intend to tell Halifax to pay a total of £350 to Mr P to put things

right. I understand Halifax has already paid £150, so I plan to tell it to pay a further £200 to Mr P."

Mr P did not provide me with any further information or evidence to consider. Halifax responded to say it accepted my provisional view.

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 provided me with any further information or evidence, I see no reasons to depart from my provisional findings.

So for the reasons set out above, Halifax will need to pay £350 in total to compensate Mr P for the errors I have identified above.

Putting things right

Halifax must pay £350 in total to Mr P to put things right as I have set out above. As I understand £150 has already been paid, Halifax must make arrangements to pay a further £200 to Mr P.

My final decision

I uphold this complaint and require Bank of Scotland plc, trading as Halifax to put things right as I have set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 12 April 2023.

Nicola Bowes
Ombudsman