

The complaint

Mr H1 and Mr H2 complain that Bank of Scotland plc, trading as Halifax, closed their joint account without authority and didn't send them the money. They would like Halifax to reimburse them for the money they say is missing, with interest.

What happened

The details of this complaint are well known to both parties, so I won't repeat every point here. Instead, I will provide a brief summary and focus on giving the reasons for my decision.

In short, in 2021, Mr H1 and Mr H2 queried what had happened to some money held in an old account. Halifax explained that the money had been sent to another account held jointly between Mr H1 and Mr H2, and that joint account had subsequently been closed. That had happened in June 2010.

Neither Mr H1 nor Mr H2 recollect asking for the joint account to be closed. They also don't have any record of receiving the closing balance, which was, according to Halifax, sent in the form of a cheque.

After several discussions with Halifax, Mr H1 and Mr H2 raised a complaint about the missing money. In response, Halifax explained that its records were limited given the matter occurred such a long time ago. It could confirm that a cheque had been drawn for the closing balance, but Halifax couldn't determine when or where the cheque had been presented for payment. Overall, Halifax didn't agree to reimburse the money. The bank did, though, offer Mr H1 and Mr H2 £200 compensation for some inconvenience it had caused during its investigation into what happened.

Mr H1 and Mr H2 weren't happy with the response from Halifax, so they contacted our service for an independent review.

Ultimately, one of our investigators didn't think Halifax should reimburse Mr H1 and Mr H2. He said, in summary, that in circumstances such as this, he had to consider what he thought to be most likely. Having done so, he thought the account had likely been closed on instruction of either Mr H1 or Mr H2.

The investigator also said that it was clear a cheque had been drawn, but there was simply no way to say for certain what had happened next. In any event, it appeared that Halifax had done what would have been expected of it – that is, drawing a cheque for the closing balance of the account – and what happened after that was outside of its control.

Mr H1 and Mr H2 disagreed. So, as no agreement has been reached, the complaint has been passed to me to decide.

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.

Alongside the brief background that I've set out above, I'm aware that Mr H1 and Mr H2 have concerns about the service they have received from our Service in relation to this matter.

The merits of this complaint against Halifax, and the level of service Mr H1 and Mr H2 have received from us, are two distinct, separate, matters – with the level of service we have provided not being within my remit to consider here.

So, whilst I am mindful of Mr H1 and Mr H2's concerns (and understand they have been addressed separately), I won't be commenting on those issues in this decision. Instead, the task before me now is to review all of the evidence provided by both parties surrounding the account closure and the cheque, consider the circumstances, then determine how I think the complaint should be resolved.

I should say, from the outset, that the evidence available here to determine exactly what happened is extremely limited. That's no surprise given the account was closed around thirteen years ago. Nonetheless, for the sake of clarity, I'll briefly set out what I do have.

On the one hand, Halifax has been able to provide some internal screenshots and system notes. Broadly, these detail the account closure and that a cheque was sent for the closing balance. On the other hand, Mr H1 and Mr H2 have provided significant testimony – throughout which, in summary, they maintain that they did not ask for the account to be closed and they did not receive a cheque.

Where evidence is incomplete, inconclusive or limited – as it certainly is here – I must reach my decision about the merits of the complaint on the balance of probabilities. In other words, what I consider is most likely to have happened in the light of the available evidence and the wider circumstances.

That's not an ideal scenario, far from it. Being in such a position often means that one party will inevitably be disappointed by the outcome. But my role is to provide an answer which I determine to be fair and reasonable in the circumstances of the complaint, and I want to be clear that I've considered things objectively and impartially; nothing I say here is questioning individual integrity or intended as a discourtesy.

From what I've seen, the account in question was closed and a cheque was sent for the closing balance on 3 June 2010. The account was in joint names, and only one of the account holders was required to sign for actions like a withdrawal.

Mr H1 and Mr H2 both say they didn't request the account be closed. They don't know who did, but they're adamant it wasn't them. I've thought very carefully about that.

While it's certainly *possible*, broadly speaking, for illicit parties to access accounts, various security measures are in place to prevent that happening. Although not absolutely guaranteed to be failsafe, with such measures in place, I'd say it's rare – and relatively unlikely – that an instruction to close an account would be followed by the bank if it was given by someone who's not authorised to do so.

With that in mind, while I know Mr H1 and Mr H2 are absolutely sure that they didn't ask for the account to be closed, on balance (and, to be clear, I don't disbelieve that this is their honest recollections), I don't think it's likely that Halifax would've taken that action unless it received instruction from an appropriate party – like an account holder. So, I'd find that to be the most plausible, that is *most likely*, event in the absence of clear evidence to the contrary.

A cheque was drawn for the closing balance. Again, that's relatively clear from what Halifax has said; but I don't have a copy of it – and nor do I have anything else to show who the cheque was made out to, when it was presented for payment or where.

I'll say at this point that I've no reason to doubt Halifax has shared all of the information it holds about that cheque. That's all I can require. There isn't anything more I can compel Halifax to do, in relation to the cheque, to help Mr H1 and Mr H2 find the answers they're looking for.

Ideally, I'd have a copy of the cheque – and all the necessary details to determine what happened to it. But that information simply isn't available. And while the details around what happened to the cheque may be limited, I'm not persuaded that means Halifax should reimburse Mr H1 and Mr H2 for its value.

While I know Mr H1 and Mr H2 see things differently; in my view, it isn't reasonable to say that because there's no record of what happened to the money after the account was closed, and the cheque sent, that Halifax did something wrong. It isn't inherently unreasonable that, some thirteen years on, there are no records to refer back to.

Instead, on the balance of probabilities, I think Halifax *most likely* closed the account and sent a cheque addressed to the account holders on their instruction. I don't see, based on the information I have, a plausible reason for it to have done something different. And after it had done so, it wouldn't really have anything further to do with the matter. It would simply consider the account closed and the balance sent.

So, overall, with all of that in mind, while I know this will greatly disappoint Mr H1 and Mr H2, I don't think Halifax should reimburse them for the sum they say is missing. There's simply insufficient evidence which shows definitively or, for that matter, demonstrates that it's more likely than not, that Halifax made a mistake.

Aside from what I've set out above, I've noted that Halifax offered £200 compensation to Mr H1 and Mr H2 for some inconvenience it caused during its investigation. It seems things weren't explained particularly clearly, and some delays occurred, which would no doubt be frustrating in a situation such as this. So, in the circumstances, I think compensation is an appropriate remedy for that failing. And to that end I'm satisfied that £200 is a reasonable amount.

As I understand it, that compensation hasn't yet been paid. So, Halifax should arrange to pay Mr H1 and Mr H2 £200 for the inconvenience it caused.

In closing, I know this isn't the answer Mr H1 and Mr H2 are hoping for and they'll understandably be disappointed. I've no doubt they've given us their testimony just as they recall it, and I can certainly understand why they're so unhappy at what's happened.

But the fact is that I don't think it would be reasonable of me to require Halifax to reimburse Mr H1 and Mr H2 for the lost amount when, in all the circumstances, I'm not satisfied the

bank did something wrong. So, this decision brings to an end what our Service can do for them.

My final decision

Bank of Scotland plc, trading as Halifax, has made an offer which I find is fair and reasonable in the circumstances of the complaint. So, I now require it to pay Mr H1 and Mr H2 £200 as it's offered to do.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H1 and Mr H2 to accept or reject my decision before 19 September 2023.

Simon Louth
Ombudsman