

## The complaint

Mr W complained because Bank of Scotland plc, trading as Halifax, allowed a fraudulent transaction to debit his account.

## What happened

On 23 September 2022. Mr W paid £8,044.34 to his Halifax credit card.

At the time of his 9 November statement, Mr W's current balance was £634.34.

At 13.35 on 24 November 2022, an individual later discovered to be a fraudster rang Halifax. He asked to check his credit card balance and was told £634.34. He asked whether there was a direct debit in place, and Halifax's adviser told him there wasn't. He asked for information about payments to the card. The adviser told the fraudster about the previous credit of £8,044.34, and the fraudster said he'd actually made an error and had intended to pay £844.34. He asked for the full payment to be reversed back to his current account, and said he'd then make a manual payment. The adviser put the caller on hold, and then said he'd sent a text to Mr W's phone with a code, and the caller would have to confirm that. The caller then claimed to be having trouble with his phone, and ended the call.

The person later discovered to be a fraudster rang Halifax again immediately. He spoke to a different adviser. He again asked for the £8,044.34 credit to be paid back to him. This time the adviser didn't send a text to Mr W's number, or ask why the caller hadn't responded to the previous text, but she just asked for the card from which the payment had been made. The fraudster gave an account number and sort code, but it wasn't Mr W's. The adviser asked three security questions about Mr W which the fraudster answered promptly and correctly. The adviser then processed a £8,044.34 payment to the fraudster.

At 14.02, the real Mr W rang Halifax. He'd received a text saying *"Further to your recent call, your code is ....."* and he'd contacted Halifax straightaway, because he hadn't called. The adviser said *"I can't see that we tried to contact you at all or sent out a message to yourself. It might just have been a fraudulent activity."* Mr W said it had come up as being from Halifax and he thought he'd better ring. The adviser repeated that Halifax hadn't tried to get in touch with him and it was *"just a fraudulent activity"* and asked if there was anything else she could help with. In fact the text had been sent because of the fraudster's first call to Halifax, which I've described above.

When Mr W was home in the evening, he checked his account online, and then rang Halifax again at 18.01. His Halifax credit limit was £15,000, and his genuine balance was £634.34. But the available credit only showed around £6900, so he was worried that there must have been a payment for around £8,000. The adviser told him about a pending £8,044.34 payment. Mr W said he hadn't made that transaction, and nor was it showing on his internet banking. The adviser checked with a colleague, then told Mr W it was a technical issue, and he'd transfer Mr W to another department which could deal with it. Mr W said he assumed that if it was technical, Halifax had just done a miscalculation and transferred it to his account – but it wasn't on his account. Mr W was transferred.

Mr W asked Halifax to stop all his accounts immediately but the adviser said they couldn't do that. Mr W was unhappy at spending over two and a quarter hours on the phone with four different advisers. He asked why they'd transferred a considerable sum of money to someone else's account, and said he always used his Halifax current account to pay off any balance on his credit card. Halifax told him it was unfortunate, and an error with their systems. Mr W also asked why Halifax hadn't contacted him before the payment, because he had never before requested this type of payment reversal of a payment already made.

Mr W complained.

Halifax acknowledged Mr W's complaint on 9 December, but didn't provide a substantive response at that point. On 29 December, Halifax issued its final response to Mr W's complaint which he received on 6 January 2023.

Halifax's final response letter said that it was declining Mr W's complaint. It said it had listened to the call recording by the fraudster, and Halifax had followed procedures by asking security questions, which the fraudster had answered correctly. It said it could send funds to external accounts in certain circumstances, but had since put further measures in place to stop refunds being paid to the wrong person. It re-credited the money to Mr W's account.

Halifax said the fraudster had called Halifax using a number which appeared to be Mr W's, so it suggested he might have been the victim of "number spoofing" and suggested he might wish to contact his phone provider about changing his number.

Halifax said it appreciated that Mr W had spent a long time on calls, but that had been necessary for Mr W's and the bank's protection. It said that if Mr W provided evidence of any additional call charges from this, it would ensure Mr W wasn't out of pocket.

Mr W wasn't satisfied and complained to this service.

Our investigator upheld Mr W's complaint. He said that an imposter had been able to impersonate Mr W and this shouldn't have happened. He didn't agree with Halifax, which had said it hadn't made any errors. He quoted Halifax's adviser who had said "it might just have been fraudulent activity". Nor had the adviser who paid out the money to the fraudster asked for an account name on the account to which the money was going. And Mr W had spent hours on the phone to Halifax trying to get it resolved. So the investigator thought £300 would be a fair and reasonable amount for Halifax to pay Mr W in compensation.

Halifax agreed. Mr W, however, replied that Halifax was denying the seriousness of its actions which had resulted in the fraud being carried out. He pointed out that Halifax hadn't admitted it was at fault. Nor had it disclosed what security questions it had asked, for the fraudster to gain access to being able to discuss the request. Mr W felt there were still an awful lot of unanswered questions which Halifax needed need to answer. So he asked for an Ombudsman to review the whole case again, and it was passed to me to consider.

### **My provisional findings**

I issued a provisional decision on this complaint. This was because I'd come to a different conclusion to the investigator about the amount of compensation. Issuing a provisional decision gave both sides the opportunity to comment on it, by the date set, before I issued a final decision.

Before issuing the provisional decision, I considered all the available evidence and arguments to decide what would be fair and reasonable in the circumstances of this complaint.

In the provisional decision, I said that Halifax accepted that the £8,044.34 was paid out to a fraudster and re-credited Mr W's account on 1 December. As the fraud on 24 November and the credit on 1 December happened within the same statement period, Mr W wasn't charged interest on it before it was re-credited. So there was no outstanding financial loss for me to consider. The issue I considered was therefore about how much compensation for distress and inconvenience would be fair and reasonable in all the circumstances of the case.

Looking at the different elements:

#### *Initial security*

The call recordings didn't show the initial security questions asked, which Halifax had said would have been completed on its internal computer system. I saw computer evidence that the call appeared to come from the same number as Mr W's, though that wouldn't necessarily have been used as security. It did appear however that Mr W's genuine phone number may have been spoofed, and I said that he will want to investigate this if he hasn't already done so.

I looked into whether voice recognition was used as initial security for the fraudster's call. Mr W told us that for five or six years, his voice had been set up as his password, and he then had to go through additional security which consisted of questions he chose when initially setting up his accounts. Halifax, however, said that voice hadn't been used for the fraudster's call, and it said that voice activation would only be used if this had been set up by Mr W. So the evidence conflicted about why voice security wasn't in use here, and unfortunately I couldn't tell why it wasn't. However, I listened to call recordings with Mr W's voice, and also the call recordings with the fraudster's voice. They were very different, so I'd have expected any voice system to have blocked the fraudster.

#### *First call from fraudster*

In the first fraudster call at 13.35 on 24 November, the fraudster asked many questions about transactions, as I've set out above. This should have raised the alarm with Halifax. It was very unlikely that a genuine account holder would have needed to ask so many. The information disclosed by Halifax's adviser included whether or not he had a direct debit, and all about transactions going back to September – including telling the fraudster about the £8,044.34 credit which the fraudster then requested.

The genuine Mr W had access to statements, and I considered Halifax should have referred the caller to those. I raised this with Halifax, which accepted that the fraudster's many questions should have raised suspicion with its adviser. If Halifax's adviser had acted appropriately here and hadn't disclosed the account information, the fraud wouldn't have happened in the same way. So this had a major impact on Mr W.

#### *Second call from fraudster*

After being told that a text had been sent to the real Mr W's phone, the fraudster made an excuse to ring off, and immediately rang again to speak to a different adviser. Halifax's adviser on this call made multiple errors.

- She didn't identify that a text message had been sent but not successfully passed. As this security measure had been attempted but not passed, I considered the adviser should have required another text message response. I asked Halifax about this, and it agreed that the adviser should have picked up on this. I find that if this had been done, the fraud couldn't have gone ahead.

- Instead, the fraudster was simply asked for the card from which the credit had been made. This gave the fraudster the opportunity to provide the account number and sort code to which he wanted the money to be sent. Very surprisingly, Halifax didn't carry out any checks at all on this. The adviser didn't check on its systems that this was the number from which the credit had been made. Nor did she ask for the name on the account to be credited or, more importantly, check for Confirmation of Payee on the account, which would have shown whether it was a genuine account in Mr W's name. If asked for the account name, the fraudster would no doubt have said it was an account in Mr W's name, but Confirmation of Payee would have shown this to be untrue.
- Another factor which should have raised an alarm was the fact that it had been two months since the £8,044.34 payment had credited the account. If a genuine account holder had really, as the fraudster claimed, mistyped this amount instead of £844.34, it's highly likely they'd have discovered this very soon afterwards, within hours or a few days. Instead, it was over two months since this payment – disclosed to the fraudster by the first Halifax adviser – had taken place. This should have led to further investigation.
- Halifax subsequently told us that its policy was that refunds of previous credits could only be made if going to an internal account, or the account from which any incoming direct had been sent. This explains why the fraudster had previously asked Halifax whether he had a direct debit set up. By paying the money to another account, the adviser broke Halifax's rules.

So there were multiple serious errors by the Halifax adviser during the second fraudster call, which resulted in the fraud being able to go ahead, and the consequent distress and inconvenience to Mr W.

#### *Initial calls by the real Mr W*

I've set out above that the real Mr W rang Halifax at 14.02, because he'd received the text which had been generated as a result of the fraudster's first call. By the time Mr W rang up, Halifax had allowed the fraudulent withdrawal, so it was by then already too late to stop it, even though Mr W rang within minutes of receiving the text. But even though that call couldn't have changed the outcome, the adviser denied that Halifax had sent any message at all, which was incorrect. It was unacceptable when the adviser said it was "*just a fraudulent activity*." So this adviser didn't properly check the records, and didn't take Mr W's call seriously, even though it flagged potential fraud.

#### *Customer service after the real Mr W reported the problem*

I looked at Halifax's customer service after Mr W reported the problem in his second call on 24 November. In my provisional decision, I said that I found this was very poor.

Mr W was passed around between multiple advisers. I appreciated that fraud calls are often long, but it shouldn't have been necessary to be passed between multiple advisers, in multiple departments, so many times. Not all of them gave him accurate information; he wasn't told which departments he was speaking to or why he was being transferred; he was put on hold for long periods; and some of them were brusque with Mr W. For example one adviser, after Mr W had already spent hours on the phone, said brusquely that she didn't understand why Mr W had (politely) said he wasn't happy. That call alone took an hour and twenty minutes, and I considered that that particular adviser was especially unhelpful, verging on rude. She also sighed audibly when having to do her job checking Mr W's

account. I found that the very poor service he received on the phone from Halifax would have been frustrating, annoying and worrying for Mr W.

I also noted that in Halifax's final response letter, it declined Mr W's complaint. In all the circumstances, this was inappropriate, because Halifax had made several serious errors, as I've detailed above. One of the ongoing concerns which Mr W expressed to us was that Halifax hadn't admitted it was at fault. I sympathised with this, and felt Halifax should have done so after the errors it had made. I recognised that the fraudster did know the answers to several security questions, and I also wouldn't expect Halifax to disclose all its security questions to any customer. But equally, it was reasonable that Mr W would want to know exactly what personal information the fraudster had known, so he'd know what to protect or change. Our investigator told Mr W what the three security questions answered verbally by the fraudster were. It's not possible for me to know how the fraudster obtained enough information about Mr W to pass the bank's security questions. If Mr W is concerned that he is at risk of falling victim to identity theft, he may wish to consider applying for a Protective Registration to reduce that risk.

Technically, Halifax acknowledged Mr W's complaint within the 15 days allowed in relation to this type of complaint, and gave him referral rights to this service. But when Halifax substantively replied to Mr W on 29 December, it declined his complaint despite the fact that it had made clear errors, which I find was a failure of service.

### *Compensation*

We award compensation for distress and inconvenience when a bank has made a mistake or acted unfairly and this has caused an impact on the customer.

When anyone suffers a fraud, most of the distress and inconvenience is caused by the fraudster. We can't compensate for the impact of the underlying fraudulent act in and of itself, but we can look at the impact the bank's actions had, to make a bad situation worse.

When we award compensation, we don't base it on punishing the bank, but on the impact on the customer. Here, however, Halifax's failings led to the fraud not being prevented, as well as poor customer service, and I considered the impact on Mr W was significant.

I considered Mr W would have been very anxious indeed about what happened. He had the prospect of having lost over £8,000, and he'd have been worried about how his personal details had been compromised. He had to speak to multiple advisers, in different teams, and there are over two and a half hours of calls. Fraud calls are often long, but I considered Halifax should have been able to action what was necessary in a much shorter time. And as I've set out above, some of the advisers provided very poor service indeed, treating him brusquely as a nuisance, instead of treating him kindly as the victim of something which should never have happened if Halifax had acted to prevent the fraud in the first place.

Mr W didn't receive reassurance that his accounts would be blocked from further frauds, and he'd have felt that Halifax wasn't taking the events seriously – for example the dismissive comment when Mr W first reported a problem. Even if Mr W had received a phishing text message that wasn't really from the genuine bank, the advisor saying that it *"might just have been fraudulent activity"* was dismissive and did not do enough to tell Mr W of the scam risks to look out for when a fraudster impersonates a bank. And the call handler on the longest 1 hour 20 minutes call, after Mr W reported the problem, was particularly brusque and unhelpful to Mr W. Mr W kept his patience despite provocation.

Taking into account all these factors, in my provisional decision I said that I considered that a fair and reasonable amount of compensation for Halifax to pay Mr W would be £1,000.

## **Responses to my provisional decision**

Mr W said he was satisfied with the provisional decision. He said that maybe Halifax would accept the findings and implement more stringent procedures to try and ensure this type of fraud is prevented, and that Halifax's employees would receive additional training in both fraud prevention and customer care.

Halifax replied that it agreed to pay Mr W £1,000 as in 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.

Having reconsidered, and in the light of the responses to my provisional decision, I consider that my provisional decision was fair and reasonable in all the circumstances of this complaint.

## **My final decision**

My final decision is that I uphold this complaint.

I order Bank of Scotland plc, trading as Halifax, to pay Mr W £1,000 compensation for the distress and inconvenience it caused him through its multiple failures to prevent the fraudulent transaction, and its very poor customer service after he reported the problem.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 2 November 2023.

Belinda Knight  
**Ombudsman**