

The complaint

Mrs C has complained Bank of Scotland plc, trading as Halifax, allowed the contents of her savings account to be completely withdrawn over a short period of time without any intervention.

What happened

Mrs C is over 90 years old. One of her three daughters has been given power of attorney for financial matters by Mrs C. This daughter is Mrs K and represents her mother in this complaint.

Mrs C, accompanied by one of her daughters Mrs L, opened a savings account with Halifax on 7 April 2021. She deposited a large value cheque which was the proceeds of her account closure with another financial institution. This cheque was for £100,770.17.

A couple of days later, Mrs C, with Mrs L, went back into branch and withdrew £770 cash over the counter. As soon as the debit card and PIN for the account was received, regular (on occasion daily and frequently more than once a day) withdrawals of £100 were made. A banker's draft was withdrawn for £80,000 on 13 April. This was made out to Mr C. Mr C is most likely Mrs C's ex-husband. Halifax noted Mrs C had presented a solicitor's letter confirming Mrs C was due to pay Mr C a considerable sum of money.

Further cash machine withdrawals were made along with two transfers to Mrs L for £10,000 and £4,800. These two transfers along with a third for £5,369 to a third party were conducted in branch and required Mrs C to be present.

By July 2021 Mrs C was no longer living with Mrs L. Mrs K in discussion with her mother got an understanding of what had happened. Mrs C couldn't recall which financial institution she'd been in to open an account.

Initially Halifax were unable to locate Mrs C's account but eventually did so. Mrs K had complained on her mother's behalf that they'd allowed her mother to be a victim of familial abuse. Halifax believed all transactions had been effectively authorised. Specifically they'd taken note of a solicitor's letter explaining the large cheque withdrawal on 13 April 2021.

By this stage Mrs K had brought her mother's complaint to the ombudsman service.

Our investigator considered the evidence. There was no doubt the genuine card and PIN had been used to withdraw funds from the account, but she couldn't see any reason why this would have alerted Halifax to take any action. She also felt, in light of the solicitor's letter, that Halifax had taken proper steps to ensure Mrs C was withdrawing funds from her account.

Mrs K believed this was insufficient. She also remained upset about how Halifax had taken so long to identify her mother's account. She's asked an ombudsman to consider Mrs C's complaint.

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've reached the same outcome as our investigator. I'll explain why.

Where there is a dispute about what happened, I have based my decision on the balance of probabilities. In other words, on what I consider is most likely to have happened in the light of the evidence.

When considering what is fair and reasonable, I'm required to take into account: relevant law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the relevant time.

The regulations which are relevant to Mrs C's complaint are the Payment Services Regulations 2017 (PSRs). These primarily require banks and financial institutions to refund customers if they didn't make or authorise payments themselves.

To help me come to a decision, I've reviewed the evidence Halifax provided as well as what Mrs K has told us.

Firstly I should say I appreciate how upsetting this must be for Mrs C and her family. The testimony given to us by Mrs K about the abuse and neglect her mother has suffered is distressing. I don't dispute her story that some form of financial abuse has more than likely taken place too.

Unfortunately that doesn't mean I can hold Halifax responsible for this. I say this because:

- When opening the account they will have noticed Mrs C was in frail health but judged she was able to make her own financial decisions. Even if they had been aware of the existence of a power of attorney (which at that stage was still waiting for registration by the Office of Public Guardian), this wouldn't have meant Mrs C couldn't open a savings account, deposit a large amount of money and then take out funds.
- It's clear Halifax took steps to ensure all transactions out of the account were properly authorised. I have seen copies of Mrs C's signature for withdrawals which demonstrate she was in branch at the time these took place.
- Our investigator has discussed the letter provided by a solicitor's firm with a representative of that firm. This was given by Mrs L to support the £80,000 withdrawal. This banker's draft was not in Mrs L's name but Mr C's. Although I've not been able to see a copy of the letter, I believe this explained Mrs C's financial liability to Mr C following a house sale. I appreciate there's been concerns raised by the solicitors of what went on but I'm satisfied there's nothing that would suggest Halifax should have been concerned about this letter. I certainly wouldn't have expected them to contact the solicitors to test its veracity.
- All cash machine withdrawals were carried out using the debit card and PIN related to Mrs C's savings account. I don't dispute these were more likely carried out by Mrs L but don't feel there's any reason why Halifax should have noticed the number of withdrawals being made. I appreciate Mrs K disagrees with this aspect but there is no history or evidence to suggest when opening this account Mrs K would have confirmed the money was staying in the account for a while or anything similar which

could have suggested Halifax should have been aware of what was going on.

- Halifax work to a checklist when confirming high-value withdrawals. I've seen a copy of this. Whilst it does talk about alerting customers to potential scams, there is nothing to indicate that customers should be alerted to the risk of familial fraud. I see nothing to suggest the Banking Protocol, as Mrs K suggests, should have been invoked.

What I can't know – because there is no supporting evidence one way or the other – is whether Halifax noticed Mrs C's frailties. This could have led them to having a conversation with her on her own to check that all was above board. However I note another financial institution did have a conversation in private with Mrs C and she confirmed everything was being done to her wishes. Unfortunately I think it's more than likely this is what she'd have said to Halifax as well.

I do agree with Mrs K that Halifax has hardly covered itself in glory in trying to locate her mother's account. This seems to have taken an unreasonable period of time, and I am sure it added to Mrs K's distress about her mother's situation.

Unfortunately I've got no scope to ask Halifax to compensate Mrs K for her distress despite her acting as her mother's attorney.

Despite my sympathy for Mrs C's situation, I don't think it would be fair and reasonable to ask Halifax to do anything further.

My final decision

For the reasons given, my final decision is not to uphold Mrs C's complaint against Bank of Scotland plc, trading as Halifax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 14 December 2023.

Sandra Quinn
Ombudsman