

## **The complaint**

Mr G1 complains about the service Bank of Scotland plc trading as Halifax provided when he visited a branch. He feels he was treated in a discriminatory way.

Mr G1 is represented in this complaint by his father (Mr G2).

## **What happened**

Mr G1 visited a Halifax branch with Mr G2 on 20 March 2023. The purpose was to discuss the options available for Mr G1's Individual Saving Account (ISA) when it matured on 2 May 2023.

However, the branch staff refused to discuss the options with Mr G1 as they thought he didn't have the mental capacity to deal with such matters. They suggested that Mr G2 obtained a Power of Attorney (POA) to enable him to act on Mr G1's behalf.

Mr G2 says Mr G1 has moderate learning difficulties, and he suffers from some health issues. But he can understand the options once they are explained to him. In refusing to discuss the savings options with Mr G1, Mr G2 says Halifax has breached the Mental Capacity Act 2005 and the Equality Act 2010. So, Mr G2 complained to Halifax on Mr G1's behalf. He said the experience has left Mr G1 highly distressed.

Halifax accepted it could have handled the matter better than it did. It also acknowledged that a POA wasn't required. It paid Mr G1 £350 compensation to apologise for the distress and inconvenience caused. It added that it had provided feedback to the Senior Manager of the branch and consulted with its Group Disability team.

Mr G2 didn't think this went far enough. He said Halifax's response didn't provide any reassurance that the situation wouldn't happen again or provide any details about what action had been taken with the staff he and his son had dealt with. He also said that it had taken Halifax 10 weeks to respond to the complaint. So, Mr G2 referred the complaint to this service.

One of our investigators looked into it. He acknowledged the distress and inconvenience Mr G1 had suffered because of what happened during the branch visit. But overall, he thought that the compensation paid by Halifax was fair. He added that only a court could decide if Halifax had breached the Equality Act.

Mr G2 didn't accept the outcome. He said the assurance his son was seeking was that Halifax would in future fulfil its obligations under the Equality and Mental Capacity Acts. He added that the investigators findings being based on what he felt was a fair and reasonable outcome were too narrow. Mr G2 added that the compensation payment made by Halifax was only accepted because Mr G1 had made a loss of interest as he'd been unable to complete the transactions he intended to do.

The investigator considered what Mr G2 had said, but ultimately, he didn't change the outcome he had initially reached. Mr G2 asked for the complaint to be reviewed by an ombudsman, so 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.

Having done so, I've come to the same overall conclusion as the investigator. I know Mr G1 will be disappointed, so I'll explain why.

Firstly, I'm aware that I've summarised this complaint in far less detail than Mr G2 and I've done so using my own words. I should also explain that I'm not going to respond to every single point made. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues.

Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is a fair outcome to this complaint.

Furthermore, I would also like to say that we take any allegation of discrimination very seriously. But I must explain that this service cannot make a finding on whether a business' actions were discriminatory - the Equality Act makes clear that this is exclusively a matter for the courts. I know Mr G2 will be frustrated by this as it is clear he wanted a direct answer to his allegations about Halifax breaching both the Equality and Mental Capacity Acts. But our role is to look at individual complaints and where something has gone wrong decide what a fair and reasonable outcome is. To do that I've taken a number of things, including the Equality Act 2010 and the Mental Capacity Act 2005, into consideration.

In this case, it's not in dispute that Halifax's service fell short of what Mr G1 had a right to expect. Halifax has accepted that it should have handled things better than it did. And that asking Mr G2 to obtain a POA was inappropriate. Halifax has apologised and paid Mr G1 £350 compensation for the distress and inconvenience he was caused. So, I've thought carefully if this is enough to fairly resolve the complaint.

Mr G2 says that the compensation payment was accepted because Mr G1 lost interest on his savings as he was unable to complete the transactions he wished to because of Halifax's actions. But I haven't seen enough to say that Mr G1 lost interest on his savings. From what I've seen, Mr G1's ISA was not due to mature until 2 May 2023 – six weeks after the branch visit. And I note Mr G2 has said that he stayed in the branch meeting long enough to understand the options available when the account matured. And that subsequently Mr G1 moved his savings elsewhere. So, overall, I'm not persuaded that Mr G1 has made a financial loss.

I know Mr G1 and Mr G2 want assurances that Mr G1 won't be treated in this manner again and they want to know what action has been taken against the staff involved. I would expect Halifax and its staff to treat Mr G1 in line with any regulations and the law. But this service isn't a regulator. We have no power to tell a bank to train or discipline its staff in a particular way, and it simply isn't possible for me to guarantee a particular standard of service if Mr G1 visits a branch in the future. Halifax has told us that it has recorded the most appropriate current support need indicators on Mr G1's account profile, and I find this to be reasonable to try to ensure similar events don't happen again.

I'm really sorry to hear about what happened during the branch visit. I can't imagine how it would have made Mr G1 and Mr G2 feel. I empathise with Mr G1 given the distress that has been caused to him. But, taking everything into account, while I appreciate monetary compensation can't rectify what happened, I'm satisfied that the amount paid to Mr G1 fairly recognises the impact this matter has caused him. And that Halifax has put measures in place to try and make sure the same won't happen again.

I've noted Mr G2's comments about the length of time it took Halifax to respond to the complaint. Complaint handling in itself is not a regulated activity and not something this service can generally comment on. But I should explain that a business is usually allowed eight weeks to respond to a complaint. I appreciate that Halifax's response was sent outside this timescale, but I don't find that the delay was so long that Mr G1 was materially inconvenienced as a result. And ultimately the short delay hasn't impacted his ability to refer his complaint to this service for an independent review.

### **My final decision**

For the reasons given above, I do not uphold this complaint – in the sense that Halifax has already paid Mr G1 fair compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G1 to accept or reject my decision before 13 March 2024.

Sandra Greene  
**Ombudsman**