

The complaint

Mr H has complained Bank of Scotland plc, trading as Halifax, won't refund him for two disputed transactions he didn't make.

What happened

In March 2024 Mr H noticed two transactions on his Halifax account he didn't recognise. This account wasn't his main account. He used it for household debit card transactions and transfers between this and his main account.

Halifax reviewed the two transactions but felt the evidence showed these had been authenticated using Mr H's phone, without any change in passwords or similar things they may expect if a third party had compromised his account. They wouldn't refund Mr H.

Mr H brought his complaint to the ombudsman service.

Our investigator felt that Halifax's evidence was convincing so wasn't going to ask Halifax to do anything further.

Unhappy with this outcome, Mr H has asked an ombudsman to consider his 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.

It's worth stating that I can choose which weight to place on the different types of evidence I review, including technical evidence, provided by financial institutions along with complainants' persuasive testimony.

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 Mr H'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 Mr H has told us. I also note from Halifax's customer notes with him that Mr H initially told them he had occasional memory issues. I've taken this into account but should stress this hasn't been the main reason behind my decision.

I believe Mr H authorised the two disputed transactions. I say this because:

- Halifax's records show logons to Mr H's phone – the device registered to his Halifax account – at the time the transactions were made on 20 and 22 March 2024. There's nothing to suggest within this evidence that these transactions weren't being carried out by Mr H, using his normal device and passwords.
- The IP addresses for these transactions are addresses that are not unusual for Mr H's mobile banking use.
- Mr H has confirmed his phone has remained in his possession and he couldn't see any compromise.
- I've reviewed Mr H's use of his Halifax account over a prolonged period. It was very normal for him to make transfers into this account from his main account to either make specific transactions or other transfers. This is what happened here. Just minutes before the payments out, credits were made into his Halifax account from his other account. If this was a compromise by a third party, then I see no reason why these wouldn't have been made directly from his other account rather than making transfers between accounts and then payments, which mirrors Mr H's own account use.
- The two payments are a couple of days apart. This would mean his phone must have been compromised twice. I can't see how that could have happened. Nor would it make sense for an unknown third party to have committed fraud in that way.

I appreciate what Mr H has told us and I know that he will remain unhappy with what I've stated above. Overall, I'm satisfied there's sufficient evidence to show he made these disputed payments.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 3 January 2025.

Sandra Quinn
Ombudsman