

## **The complaint**

Mrs H, on behalf of the customer Mrs M, has complained about Bank of Scotland plc (trading as Halifax) allowing withdrawals which she suspects could possibly have been unauthorised or part of a scam.

## **What happened**

Both sides are most familiar with the case, so I'll summarise things more briefly.

Mrs M is Halifax's customer. Mrs H, her daughter, is representing Mrs M.

In September 2023, Mrs M was diagnosed with dementia. Mrs H has explained that in November 2023, Mrs M was scammed by a fake gardener, who got her to withdraw £2,500 in cash and hand it to them, when they'd only cut a handful of branches.

After becoming aware of this, Mrs H looked into Mrs M's historic transactions. Mrs H has raised concerns over cash withdrawals going back to early 2017, of between £500 and £2,500. Mrs H feels that her mother would not have made withdrawals over around £400. Mrs M generally pays for things primarily in cash. The branch staff recalled that during her latest withdrawals, Mrs M had said she was taking out the money so that she didn't have to go into branch so often. Mrs H has accused the branch staff of lying. Mrs H would like Halifax to admit their incompetence, apologise, give answers to her satisfaction, refund Mrs M, and ensure this doesn't happen to others.

Halifax refunded the £2,500 withdrawal as a gesture of goodwill, and added further support to Mrs M's account in light of her diagnosis. But they didn't think they were otherwise liable for the historic withdrawals.

Our Investigator looked into things independently and didn't uphold the complaint. Mrs H appealed, so the complaint's 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.

I understand that Mrs M fell victim to a scam in November 2023, and so she has my sympathy. I appreciate this can't have been an easy matter to deal with, not least given her wider health situation. It's worth keeping in mind that it's the scammer who's primarily responsible for their scam and the resulting distress, and who really owes Mrs M her money back. But I can only look at what Halifax are responsible for.

I need to clarify what our service is here for. We're an informal dispute resolution service, here to decide individual complaints between financial businesses and their customers. We're not the regulator, though, that's the Financial Conduct Authority (FCA). So we're not really able to look into the wider concerns Mrs H has raised about the way Halifax works, nor make Halifax change their processes. We're also not here to represent either side or run an inquiry on their behalf – we're independent. And in this dispute between Mrs M and Halifax, I'm only looking into what happened between Mrs M and Halifax, not other customers.

Turning to the matter at hand, I've considered whether the historic withdrawals were most likely authorised or not. Halifax would normally need to refund unauthorised transactions.

I should point out that customers normally only have 13 months in which to report payments they think are unauthorised. So by the time most of these historic withdrawals were reported, it was too late under the rules. Nonetheless, Halifax have not objected to us considering this point. This does mean, though, that the further back we go, the evidence is naturally more limited, given the time that's passed and the requirement under data protection rules to dispose of old data rather than hold onto it for too long.

With that said, Halifax have evidenced that the withdrawals in dispute were authenticated in branch, using mixtures of signed withdrawal slips which match up to Mrs M's genuine signature, and/or her genuine card and the correct PIN, and/or her photo ID. On top of that, Mrs M went to branch often and was known to the branch staff, so it's not especially likely they would've thought that someone else was her. Based on the evidence at hand, I find it's most likely that these withdrawals were authorised.

Mrs H suggested that Mrs M could possibly have made the historic withdrawals as part of a scam or scams. And I appreciate that Mrs H is looking out for her. But while it does look like Mrs M was unfortunately scammed in November 2023, there's no evidence which shows or reasonably substantiates that she was being scammed before that – let alone going all the way back to early 2017. Mrs M never raised any concerns about these payments herself, nor did she ever behave in a way which raised suspicions. As the money was withdrawn in cash, it's not possible to know what Mrs M spent it on. The branch staff had questioned some of the withdrawals and discussed the potential of scams with Mrs M, but ultimately found nothing of concern. The branch staff recalled that during her later withdrawals, Mrs M said she was making them so that she didn't have to go to branch as often. And that makes sense – she normally paid for things in cash, and otherwise made frequent branch withdrawals, so occasional larger withdrawals would save her time. Mrs H has accused the branch staff of lying and of potential criminal activity. But I've found no good reason to doubt their recollections, which have been plausible and consistent. And I've found absolutely no evidence to substantiate any criminal activity on the branch's part. That is a very serious accusation and I've not found any reasonable basis to support it.

Essentially, I cannot fairly or reasonably hold Halifax liable for payments on the basis that they were part of a scam, when the customer in question has not said they were part of a scam and the evidence does not support that they were part of a scam.

What's more, even if I were to accept that Mrs M was scammed previously, despite the lack of evidence, that would not automatically mean that Halifax had done something wrong or that they owed Mrs M a refund. Under the Payment Services Regulations, Mrs M is liable for transactions she authorised in the first instance – even if she then gave the money to a scammer. And broadly speaking, Halifax had an obligation to follow her instructions – the starting position in law is that banks are expected to process payments which a customer authorises them to make.

Halifax should have been on the lookout for payments which could be the result of fraud or scams, to help prevent them. But a balance must be struck between identifying and responding to potentially fraudulent payments, and ensuring there's minimal disruption to legitimate payments. Given the volume of transactions which are made every day, amounts which may seem substantial on the face of it may not be so uncommon or remarkable in the grand scheme of things as to require intervention. And customers' payments do often fluctuate – they will occasionally spend more or less than normal. So I wouldn't expect Halifax to necessarily interrogate every increase in spending.

Here, the withdrawals in dispute were spread out over the course of over six and a half years. They do not follow any pattern consistent with fraud. They fit with Mrs M's tendency to pay in cash and make branch withdrawals, and it would make sense for her to occasionally withdraw larger amounts. While the disputed withdrawals were at times closer together, they were never quite so large, rapid, or otherwise remarkable as to have required further intervention beyond what Halifax already did. Further, Mrs M was known to the branch, she never raised any concerns, and she doesn't seem to have said anything or exhibited any behaviour which gave Halifax sufficient reason to invoke the Banking Protocol or to think she was at a realistically foreseeable risk of harm. And, again, we don't have any substantive evidence that these withdrawals did cause her any harm before November 2023. So I don't find that Halifax were required to intervene further in these historic withdrawals.

I've got through the relevant account records. From what I've found, Mrs H made Halifax aware of Mrs M's vulnerability following the November 2023 scam incident, but they were not otherwise made aware before then. Indeed, Mrs M had been managing her own finances before this, and just the previous year Mrs M had set up a mandate on her account with Mrs H, which required Mrs M to have the proper mental capacity. That process involved checking whether there was anything which might impact Mrs M's decision-making ability or whether she needed any extra support, and nothing was raised. So again, I can't see that Halifax had sufficient cause to be concerned about Mrs M earlier. And once they were made aware of her health situation, they added extra support to her account.

As these were cash withdrawals, rather than e.g. bank-to-bank transfers, it wasn't possible for Halifax to recover the money, and they were not covered by the CRM Code for scams. However, Halifax did choose to refund the £2,500 withdrawal involved in the November 2023 scam regardless, as a goodwill gesture. That was good of them.

Mrs H also raised concerns about someone writing down Mrs M's PIN for her when it was changed. But branch staff can and do help customers do things like change their PIN – especially in cases like Mrs M's, where Mrs H says she wouldn't have wanted to do it herself at an ATM. It's most likely that a staff member simply helped her change her PIN and wrote down the new one for her. I don't find anything inherently suspicious or notable about that.

The reason Halifax were unable to provide statements for one of the accounts involved was because it was a passbook account. So it used a passbook, rather than statements. In the end, they produced a transaction list in place of statements, which was sufficient.

Finally, I do appreciate that Mrs H is very unhappy with Halifax's customer service. While I appreciate she feels Halifax looked into the case too quickly, I can't say it was wrong for Halifax to investigate things without delay. It was also reasonable for them to ask questions about Mrs M's health situation, to better understand what might've happened, how it affected her, and what she needed going forward. And I'm unsure why Mrs H feels that Halifax sending Mrs M flowers and a candle confirms that they are corrupt or incompetent. I think that was simply a nice gesture given the weight of her diagnosis and the November scam. Halifax do accept they could've explained things better for Mrs H. But as our Investigator set out, we're only able to award compensation to the complainant – here: Mrs M. We're not able to award compensation to their representatives.

So while I'm very sorry to hear about what happened to Mrs M in late 2023, and while I'm sorry to hear that Mrs H has found the matter most stressful, I've not found that Halifax need to do anything more here. In summary, it's most likely that the disputed withdrawals were authorised, I've not found any evidence that they were related to a scam before November 2023, I've not found that Halifax needed to intervene further historically, and I've not found any other fair basis on which to tell Halifax to do something more than what they've already done. I do appreciate that this is not the outcome that Mrs H was hoping for. But given the evidence at hand and the balance of probabilities, I'm unable to reasonably reach any other conclusion.

### **My final decision**

For the reasons I've explained, I don't uphold this complaint.

This final decision marks the end of our service's consideration of the case.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 12 February 2025.

Adam Charles  
**Ombudsman**