

The complaint

Mrs G complains that Bank of Scotland plc trading as Halifax won't refund her for two disputed cash withdrawals carried out on her account.

What happened

Mrs G has appointed a representative to help her with this complaint. But for ease of reading, I'll refer to Mrs G throughout this decision.

On 21 and 29 May 2024, two separate transactions of £2,000.00 and £2,006.00 were withdrawn from Mrs G's account at a Halifax branch using Mrs G's debit card. Mrs G says she doesn't know who made the withdrawals.

When Mrs G discovered the transactions, she says she contacted Halifax to report them as unauthorised and asked it to refund the money. But Halifax didn't think it was liable for her loss. Unhappy with this, Mrs G raised a complaint as she felt she should receive a full refund.

Halifax said it wasn't liable because:

- The disputed transactions had been carried out using Mrs G's genuine debit card, and her Personal Identification Number (PIN).
- Mrs G still had her debit card in her possession when she discovered the disputed withdrawals.
- Mrs G said she hadn't kept a record of her PIN or shared it with anyone.
- It could not see how someone else could've obtained Mrs G's debit card and had knowledge of her PIN. Because of this, it wouldn't accept her claim of fraud.

Mrs G remained unhappy and referred a complaint to this service. But our investigator didn't think Halifax was responsible for her loss as he believed that Mrs G had authorised the two withdrawals herself. Mrs G didn't agree and asked for an ombudsman's 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 done so, I realise this will come as a disappointment to Mrs G, but I've reached the same conclusions as our investigator. I've explained why below.

The relevant regulations here are the Payment Services Regulations 2017. In general terms, the bank is liable if the customer didn't authorise the payments, and the customer is liable if they did authorise them. So what I have to decide here is whether it's more likely than not that Mrs G, or someone else on her behalf, authorised the disputed cash withdrawals.

Mrs G's representative has sent us a lot of information in relation to this complaint and I thank him for doing so. I've read everything he's said. But when reaching this decision, I've

focused on what I consider to be the most relevant points, rather than commenting on everything he's said. No discourtesy is intended by this.

I understand that Mrs G has been questioned at length by her family members in relation to these disputed counter withdrawals. She remains adamant she didn't withdraw the £2,000 and £2,006 over the branch counter, and there have been a number of suggestions from Mrs G's representative as to how the withdrawals may have been possible without her involvement.

Mrs G has said her card has always been in her possession, no one else has access to it, and no one else knows her PIN. It has been suggested that her card may have been 'cloned.' But it's not generally thought possible to copy the chip on the card, and our service hasn't come across any cases where we felt this was a likely explanation of what happened. I haven't seen any persuasive evidence this is what happened in this case. And from the records that the bank has sent to me from when the withdrawals were made, I'm satisfied that they were both made using Mrs G's genuine card and PIN.

Halifax has also told our investigator that as part of the identification process for the person making both withdrawals, a passport was presented to the cashiers. I understand the bank didn't inform Mrs G or her representative about this, and they were only made aware of the presence of a passport by our investigator.

I asked the bank many questions about its identification process when it comes to branch counter withdrawals, and the specifics of the two withdrawals from Mrs G's account. I understand from the bank's process that there is no specific value limit where photo identification is required, rather than relying on the customer entering their PIN. The system will instead prompt the identification which is required for a particular withdrawal. For both withdrawals from Mrs G's account, her signature was required, however as Halifax doesn't hold a valid signature for Mrs G, her passport was used instead. I've seen the bank's system notes from the £2,006 withdrawal, and from this, on the balance of probabilities, I'm satisfied that a passport was presented as photo identification. Once a passport is presented, the cashier is required to check that the customers' profile matches the details the bank holds on its system, and that their appearance matches the age, gender and ethnicity of the person in front of them.

I asked if a copy of the passport was retained at the point of either withdrawal, however I was told that this is not part of the process for security purposes, and it is not required for a copy of the passport to be kept on file. Instead, the cashier is required to confirm whether they've seen photo identification as part of the withdrawal process. And in this case, both withdrawals were recorded having been processed using both chip and PIN, and photo identification in the form of a passport. I find from this evidence, that it's most likely that not only was Mrs G's genuine card present each time, but that her passport was presented to both cashiers at the point of the withdrawals too.

Mrs G's representative has questioned why the branch didn't retain CCTV of the withdrawals after Mrs G reported them as fraudulent. I understand that after reporting fraud to the Police, they visited the branch where the withdrawals were made, only to be told it was no longer available. As such, the Police didn't take any further action.

I asked Halifax why it didn't retain a copy of the CCTV for the later withdrawal, as it would've still been available at the time Mrs G reported the fraudulent withdrawals. I accept it would've been helpful for Mrs G and her family, as well as the Police, to view such footage. Mrs G's representative believes that the CCTV would've shown that Mrs G herself didn't make the withdrawals, but I'm not persuaded that this would've been the case. This is in view of the way the withdrawals were made, as well as the fact that Mrs G was still in possession of her

card when they were reported to the bank as fraudulent. Whilst it would've been helpful for Halifax to retain the CCTV, there was other system evidence available at the time to enable its fraud team to conclude that Mrs G herself authorised the withdrawals. I can appreciate Mrs G and her representative's frustration that the footage wasn't retained, and whilst I accept Halifax's fraud investigation could've been more thorough, ultimately, when considering the relevant regulations, I can't say that it made a mistake in not refunding Mrs G for the disputed transactions.

I was sorry to hear of the difficulties this situation has caused to Mrs G. I know she's a vulnerable individual and this whole ordeal can't have been easy for her. But from the evidence I've seen, I can't fairly require Halifax to refund the £4,006 to her account.

My final decision

For the reasons mentioned above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G to accept or reject my decision before 1 July 2025.

Lorna Wall
Ombudsman