

## **The complaint**

Miss M complained because Bank of Scotland plc, trading as Halifax, refused to refund her for cash withdrawals which she said she didn't authorise.

## **What happened**

On 30 May 2024, Miss M contacted Halifax. She said she'd noticed two cash machine withdrawals which she hadn't made.

On 25 May, Miss M had made an undisputed £20 cash withdrawal at a supermarket at 15.59. At 17.58 the same day, there was a cash withdrawal for £500, which Miss M disputed.

There were then some more undisputed transactions. On 29 May Miss M made a £9.17 undisputed payment at 10.57. At 13.53 the same day, there was a cash machine withdrawal for £350, which Miss M disputed. This took place at the same machine as the first disputed transaction a few days earlier. So the total amount in dispute was £850.

Miss M told Halifax that she still had her debit card; she lived with her partner; no-one else knew her PIN; and she hadn't written down her PIN or stored it anywhere. She also notified Action Fraud.

Miss M rang four times during June, and was told she'd need to speak again to the police, who would liaise with Halifax. She had contacted the police and Action Fraud, and also asked for CCTV.

On 25 June, Halifax refused to refund Miss M for the disputed cash withdrawals, and she complained. She said she'd been messed around, being passed back and forth since May.

Halifax didn't uphold Miss M's complaint. It issued its final response letter on 6 August. It said that the card and PIN were used to make the cash machine withdrawals, and that in between the disputed withdrawals, Miss M had made other payments which she'd confirmed as genuine. It said that as it couldn't see how the withdrawals could have been made by someone else, it couldn't refund her. In relation to service, it said it could see Miss M had been in touch several times for an update, but she'd been told the police would have to contact Halifax's police liaison team, and it hadn't done so.

Miss M wasn't satisfied and contacted this service. She said she'd been passed between Action Fraud and Halifax for three months. She said that by the time the police asked the machine-owning bank for the CCTV, it had been deleted. Miss M said that as a result, she wasn't able to pay all her bills. She was upset with Halifax not supporting her, as she'd been a loyal customer for a long time. She said someone had stolen her money and no-one was bothered.

Our investigator didn't uphold Miss M's complaint. She said that the disputed transactions had been made by the chip in her card being read, and the correct PIN being entered. And Miss M still had her card, and said no-one else knew her PIN or could access her card.

Our investigator also mentioned that Miss M's registered device had been logged into, using biometrics, to check the PIN on 25 May at 15:13, before the first withdrawal. A similar check had also taken place in February.

Also, Miss M's bank statement showed that there had been several undisputed transactions: before, between, and after, both disputed cash withdrawals. So whoever made the transactions would have needed access to Miss M's card. And they'd also needed to know her PIN or to have accessed her registered phone and banking app in order to look up the PIN. But they'd also have needed to return the card to Miss M between the disputed withdrawals, without her knowledge.

So the investigator thought it was likely that Miss M had authorised the disputed withdrawals herself.

Miss M didn't agree.

She said she hadn't been in the area at the time of the disputed transactions. She also said that her account statements show that she rarely makes cash withdrawals, only on a very few occasions when shops only take cash, and on those occasions she wouldn't take cash from an outside cash machine, but would use a bank transfer or go to a Halifax branch. Miss M said she was annoyed that CCTV hadn't been requested promptly and had now been deleted. And she said that a member of Halifax's fraud team had told her it looked as if her card had been cloned, as she'd had her card with her at all times, and hadn't been in the area when the transactions had happened.

Miss M also added that later, in September, she'd had a notification from Halifax to say that a transaction for £27.45 had been declined, because it had been made using a cancelled or blocked card. Miss M said this showed her old card might still be being used.

Miss M 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.

There are regulations which govern disputed transactions. 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 determines the outcome here is whether it's most likely that Miss M, or a third party fraudster unknown to her, carried out the disputed cash withdrawals. If Miss M provided her card and details to someone else and allowed them to carry out the withdrawals, that counts as Miss M authorising them herself.

The technical computer information shows that the withdrawals were carried out using Miss M's genuine Halifax card, with the unique chip embedded into it. I've considered Miss M's comment that the card could have been cloned. But I find it unlikely in this situation. It's not generally thought possible to copy the unique chip on a 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 evidence Miss M's card was cloned, and I accept that the payments were made using her original card, the same one she was using for genuine payments around the same time.

I've also considered the fact that the correct PIN was used for both transactions. Miss M said she hadn't written down her PIN, or disclosed it to anyone. But there are 10,000 possible

combinations of a four-digit PIN, so it's most unlikely any fraudster could have guessed Miss M's PIN.

I understand that Miss M feels strongly about the disputed transactions, and I can see that her cash withdrawals tended to be smaller. So I've looked at all the possible ways the disputed withdrawals might have happened. But I can't see how a third party fraudster could have carried out the withdrawals when she had her genuine card with her throughout, and hadn't written down or disclosed her PIN.

I recognise that Miss M is frustrated that she wasn't able to obtain CCTV from when the disputed withdrawals were made, and she did make multiple calls trying to get progress especially in June. But in practice, even if it's available, CCTV is rarely as useful as is hoped. That's because it would have to show both the screen and the transaction taking place, and simultaneously a clear and identifiable image of the person making the withdrawals.

I've also considered whether it's possible that someone close to Miss M might have carried out the disputed withdrawals without her knowledge or consent. Although that's never an attractive option, it might explain why they'd been able to access her card, and return it, without her knowledge. The fact that there was a PIN check not long before the first disputed withdrawal might also support the idea of someone else making the transactions, though there had been a previous PIN check in February which didn't lead to a disputed transaction. But to do the PIN check on Miss M's phone, any such person would also have had to have been able to access that device – and the technical computer records show that the PIN check was carried out using Miss M's biometric security. So again, I can't see how any third party could have done this without Miss M's knowledge or consent.

Finally, what matters here is who made the disputed withdrawals in May. The fact that a subsequent September attempted transaction was blocked by Halifax's systems doesn't help determine what really happened in May.

Taking all these factors into account, I can't see how anyone other than Miss M could have carried out the disputed cash withdrawals. That's because they were made using her genuine card, and her correct PIN, which Miss M hadn't written down or disclosed. So I do not uphold this complaint.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 28 February 2025.

Belinda Knight  
**Ombudsman**