

The complaint

Mr R complains that Bank of Scotland plc trading as 'Halifax', has discriminated against him for failing to make relevant reasonable adjustments for him and has, as a result, breached the Equality Act 2010.

What happened

Mr R has had a credit card with Halifax since 2007. He has several long-term health, and neurological conditions. One of Mr R's conditions is Auditory Processing Disorder ('APD'), and this, in particular, makes it difficult for him to understand Halifax's telephone interactive voice response ('IVR') system. On 5 September 2023, Mr R called Halifax to make a payment after a direct debit payment was returned unpaid the previous day. He was ultimately able to make this payment but he found the process difficult due to the IVR system. Mr R wanted to be put through straight to a Halifax agent.

Mr R complained to Halifax. Amongst other things, he said Halifax is in breach of the Equality Act 2010 because it refuses to put in place a dedicated phone line that would allow customers with disabilities to get through to an agent directly. He says this also breaches the "FG21/1 Guidance for firms on the fair treatment of vulnerable customers" ('FG21'), which is guidance issued by the Financial Conduct Authority ('FCA') for regulated firms. Mr R noted that other businesses he deals with provide a dedicated phone line for those with disabilities and he couldn't understand why Halifax did not. He said, other options such as visiting a local Halifax branch to speak to someone in person is not available to him due to another health condition as there is no suitable disabled parking.

Halifax didn't uphold Mr R's complaint. It noted there were several options for Mr R to select if he wanted to bypass its IVR system and speak directly to one of its agents, who it said all received mandatory training to help them deal with customers who may be vulnerable including where this is due to a disability. However, after the matter was referred to us, it transpired the options to bypass the IVR system, did not work. Ultimately, Halifax agreed it had made a mistake and recommended a solution which Mr R confirmed had worked when he tried it. This entailed him pressing two specific keys on his phone keypad and by doing this, he was put through to an agent without needing to request this via the Halifax IVR system. He has recently confirmed the other ways Halifax previously suggested, such as asking the IVR system to put him through to an agent, does now also work.

Our investigator thought Halifax should pay Mr R £250 for the distress and inconvenience its initial mistake caused. She noted that even whilst the complaint was with us, Halifax still didn't identify there was an issue with bypassing the IVR system. And this had caused Mr R inconvenience and stress as he'd tried Halifax's suggestions on several occasions, without success.

I contacted Mr R and, for similar reasons, I said my initial thoughts were that the investigator's recommended compensation, which Halifax had agreed to pay, was fair and reasonable. Mr R remained very unhappy that, in his view, Halifax had breached the FG21 guidance and Equality Act 2010. He considered he should be awarded compensation in line with the Vento guidelines as this is what a court would do. He said that his complaint involved serious acts of

discrimination and a court would award, at least, £1,100 for this. He said this would particularly be the case if the business was a regulated one. He considered the Financial Ombudsman Service was discriminating against him by not following the Vento guidelines.

Mr R had also previously raised the issues of delays with receiving a response from Halifax in relation to his concerns. But I explained to him that I could see a final response letter, which was correctly addressed, was sent to him within expected timescales. Mr R accepted this but confirmed he wanted to proceed to a final decision in relation to his main complaint about the reasonable adjustments he says Halifax failed to make for him.

As no agreement could be reached, I issued a provisional decision to both parties. I said I was intending to increase the compensation to a total of £350 based on further information provided to me from Mr R. Mr R didn't respond to my provisional findings. Halifax said it agreed with my provisional 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.

Neither party has added any substantial information in response to my provisional decision. So, I'm reaching the same conclusion as that set out in my provisional decision for the same reasons. These are set out below.

Mr R considers Halifax has failed to make reasonable adjustments and has discriminated against him. And as such, he considers Halifax has breached the Equality Act 2010. I should note at the outset that the Equality Act 2010 only becomes relevant if Mr R does have a disability. In my view, I think it's likely that a court would find he is disabled as defined by the Equality Act 2010. So I consider this is a relevant consideration in reaching my decision as this Act is relevant law. I've also taken into account FG21 guidance published by the FCA. I have fully considered what it says regulated businesses must do to meet the needs of vulnerable consumers including those who may be vulnerable due to a disability.

Halifax's initial mistake was that its IVR system did not allow Mr R to get through to an agent when he called to make a payment in September 2023. I appreciate this must have been frustrating for him. However, from what I can see Mr R was still able to make a payment. And he has not reported that he had any other problems managing his account which he has held for a number of years. So, whilst I accept it did cause Mr R some difficulty in September 2023, I cannot fairly say this matter has caused him any financial loss.

Nonetheless, I consider the issue with the IVR system has caused Mr R considerable frustration and distress. This is particularly the case given the length of time it took for Halifax to discover there was a problem before providing Mr R with a workable solution which allowed him to speak directly to an agent.

Initially I did think the £250 recommended by our investigator was a fair and reasonable way to resolve things. But having reconsidered everything I've decided to increase this to £350. In reaching this level of compensation I've taken into account several factors including the fact the problem persisted for a number of months; the time and effort Mr R put in to resolving this matter and the upset this caused him; and the fact Halifax took several months to accept its system wasn't working in the way it said it should before it offered a workable solution. I consider a total of £350 fairly reflects the distress and inconvenience caused by Halifax's mistake.

I want to make it clear that in coming to this conclusion I've also taken into account Mr R's submissions about what level of compensation I should award including what he said about the Vento guidelines. But as I explained to him, where I uphold a complaint, under our rules, my role is to make an award of such amount as I consider fair compensation for distress and inconvenience. And in deciding what amount is fair compensation I've taken everything into account including all relevant law and all the circumstances of this case. Having done so, I think £350 reasonably and fairly reflects the distress and inconvenience Mr R personally experienced because of Halifax's errors.

In terms of the other points made by Mr R, I've taken on board what he has said about what other businesses do in terms of reasonable adjustments made for customers with disabilities. But Halifax has set up its own systems and procedures for dealing with customers who are vulnerable, including where this vulnerability is as a result of a disability or long-term health condition. As far as I can tell, Halifax has taken steps to meet with its obligations under FG21, such as to: *"Ensure frontline staff have the necessary skills and capability to recognise and respond to a range of characteristics of vulnerability."*

I also note what Mr R said about experiencing poor customer service in terms of Halifax causing delays in answering his concerns, which I consider is part of his overall complaint. However, I can't fairly say there were any delays here. From what Mr R said in his complaint to us, he first raised his concerns to Halifax shortly after the problems with the IVR system in early September 2023. And this was answered by Halifax in late September 2023. So, I don't think Halifax caused any unreasonable delays in responding to Mr R's concerns.

My final decision

My final decision is that I uphold this complaint. I order Bank of Scotland plc trading as Halifax to pay Mr R a total of £350 for the distress and inconvenience it has caused. Bank of Scotland plc trading as Halifax will be entitled to deduct any amount from this compensation that has already been paid to Mr R in relation to this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 5 February 2025.

Yolande Mcleod
Ombudsman