

The complaint

Mr H complains that Bank of Scotland plc trading as Halifax ("Halifax") held him liable for cash withdrawals he didn't recognise.

What happened

Mr H noticed several cash withdrawals that he didn't recognise. In total there were four withdrawals totalling £480 made over a seven-day period. The same automated teller machine (ATM) was used each time, which was also used by Mr H for a withdrawal.

Mr H got in touch with Halifax to tell them about the unrecognised withdrawals. Halifax replaced Mr H's card and discussed what had happened.

Mr H told Halifax that he still had his card and no one else knew the personal identification number (PIN) or had access to the card. He said he was either at home or at work when the withdrawals were made.

After Halifax investigated the situation, they declined to make a refund as they couldn't identify any compromise of the card or PIN that would explain how a third party could've made the withdrawals.

Mr H reported the loss to the Police who reviewed CCTV of the ATM. The CCTV evidence about the withdrawals was inconclusive, so the Police were unable to take the matter further. They commented that on several of the withdrawals, no one could be seen at the ATM based on the timings of the withdrawals.

Mr H made a complaint to Halifax about the losses and repeated his request for a refund, arguing strongly that he wasn't responsible. His representative believed a cloned card could explain how the cash withdrawals were made.

Halifax again declined to make a refund, explaining that there wasn't enough evidence to conclude the payments were fraudulent.

Unhappy with Halifax's final response, Mr H brought his complaint to the Financial Ombudsman Service for an independent review. An investigator asked both parties for information about the issue and Mr H was able to confirm his version of events. He couldn't understand how Halifax could hold him responsible when the CCTV footage showed no one was at the ATM at the relevant times. Mr H felt he'd been treated unfairly by Halifax.

Halifax provided details of their investigation and the audit data from the transactions showing Mr H's card was used to make the withdrawals along with the correct PIN.

After reviewing the evidence, the investigator didn't recommend upholding Mr H's complaint. They commented that no one else knew the PIN, nor was it written down, but it was successfully entered each time there was either a balance enquiry or a cash withdrawal, so the person using it was aware of it.

The pattern of use was not thought to be indicative of fraudulent use, and it was remarked

that it was unusual to see legitimate transactions used between the disputed ones. The investigator confirmed that cloned cards won't work in this situation based on the card's chip being read. In conclusion, the investigator didn't think there was another reasonable explanation for how a fraudster could've used the card without Mr H's knowledge.

Mr H disagreed with the investigator's conclusions and asked for a further review of the complaint. Mr H said he'd experienced other problems with his card after the cash withdrawals and maintained there was an issue with his account.

As no agreement could be reached, the complaint has now been passed to me for a decision. As part of my own investigation, I asked for further authentication data from Halifax to consider if a cloned card was responsible for the withdrawals. Halifax don't believe it's possible to use a cloned card to withdraw funds in the UK from an ATM.

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.

The relevant law surrounding authorisations are the Payment Service Regulations 2017. The basic position is that Halifax can hold Mr H liable for the disputed payments if the evidence suggests that it's more likely than not that he made them or authorised them, but Halifax cannot say that the use of the card and PIN conclusively proves that the payments were authorised.

Unless Halifax can show that consent has been given, it has no authority to make the payment or to debit Mr H's account and any such transaction must be regarded as unauthorised. To start with, I've seen the bank's technical evidence for the disputed transactions. It shows that the transactions were authenticated using the payment tools issued to Mr H.

It's not my role to say exactly what happened, but to decide whether Halifax can reasonably hold Mr H liable for these transactions or not. In doing so, I'll be considering what is most likely on a balance of probabilities.

Mr H and his representative believe that it's possible a cloned card could be used to make the withdrawals. Having considered the possibility, I'm not convinced this is the explanation. That's because based on what our service has seen, and the industry guidance available to us, we have yet to see a complaint where the CHIP on a card has been cloned. UK ATMs are (according to Halifax) prevented from using the magnetic strip (which can be cloned) to make cash withdrawals.

I haven't been able to test that assertion from Halifax, but given that Mr H also used his card in the same ATM, with the same audit data shown on Halifax's system, this would tend to indicate that the disputed transactions also used his genuine card, rather than a cloned one (even if that was possible). If it was a card that had been read using the magnetic strip, I'd expect to see different audit data.

Additionally, there's no plausible explanation for how the PIN could've been obtained by someone to complete the withdrawals. The pattern of withdrawals (not using the maximum daily withdrawal and the seven-day period) also don't support the case that an unknown third party could be responsible. Generally, if it was a thief who managed to obtain the card and PIN, they'd use it as fast as possible as they wouldn't know when it would be reported. That didn't happen here. The withdrawals were made over a week period and a balance enquiry was carried out prior to the actual withdrawal.

As I don't believe there's sufficient evidence to believe a copy/clone was responsible, I've thought about the broader circumstances. Mr H told Halifax and our service he hadn't told anyone else about the PIN, and he'd kept the card with him. So, it's reasonable to conclude no one else was given either the card or the PIN. It seems to me to be unlikely that an unauthorised person could repeatedly take the card (having found out the PIN somehow) and then replace it each time without Mr H being aware of it.

I do acknowledge that Mr H genuinely believes he wasn't responsible, but I'm afraid the evidence doesn't support that assertion. Mr H would also be responsible for the withdrawals if the card was used by someone else with his knowledge.

I've also thought about the CCTV coverage. It was reported that on a number of occasions, no one could be seen to use the ATM. I haven't seen the footage or the been able to check timings of the coverage/the CCTV itself, so it's difficult to comment on the accuracy of it. But, the evidence from Halifax shows the genuine card was used at an ATM that's also used by Mr H and is the only one in that area (according to Halifax's evidence).

So, it seems unlikely that the audit data about the transactions is wrong, more likely that there's an issue with the CCTV. It's implausible to think that the withdrawals were generated by the ATM without the genuine card and PIN being entered (if it was an emergency withdrawal – this would be indicated in the audit data – which it wasn't here), so I've not relied on the information too heavily in my considerations.

While I'm sure Mr H will disagree with me, the evidence that I've considered leads me to the conclusion that, on the balance of probabilities, it was more likely than not that Mr H authorised or allowed his card details to be used to make the payments. So, taking everything into account, I think it is fair and reasonable for Halifax to hold Mr H responsible for both transactions.

This finding in no way undermines Mr H's belief that he wasn't responsible, it's simply that the evidence doesn't support a claim for a refund from Halifax.

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 Mr H to accept or reject my decision before 1 September 2025.

David Perry
Ombudsman