

## **The complaint**

Mr I complains Bank of Scotland plc trading as Halifax (Halifax) failed to support and refund him for a fraudulent transaction on his account at an Automated Teller Machine (ATM).

Mr I was represented by his daughter on his complaint.

## **What happened**

On 8 January 2025 Mr I contacted Halifax to dispute a transaction of £300 on his account taken from a link ATM machine in Southall on 28 December 2024 which he did not recognise.

He said that although the debit card remained in his possession, he did not authorise or consent to the transaction.

Mr I's representative states that despite Mr I raising his concerns with Halifax, it did not take the matter forward and investigate and instead directed him to inform Action Fraud and the police for further assistance.

Mr I's representative also state that Halifax were dismissive to Mr I based on his age and him not being fluent in English, and so in doing contravened the Equality Act 2010.

The representative for Mr I felt it likely that his card was cloned or otherwise compromised. On investigating Halifax declined his claim and refused to refund the £300 in dispute. It said it couldn't conclude the transaction was fraudulent.

Our investigator considered this complaint and didn't uphold it. As Mr I disagreed the complaint has been passed to me for a decision.

## **What I've decided – and why**

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Having done so, my review of the evidence has led me to the same overall conclusion as the investigator for much the same reasons.

I'm very aware that I've summarised this complaint in far less detail than it may merit. Instead, I've focussed on what I think are the key issues here. The investigator's view set out the full facts, the transaction in dispute, and the evidence that was presented. So, I won't repeat every detail here, only those which form the basis of my decision. Our rules allow me to do this. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual argument to be able to reach what I

think is the right outcome. I will, however, refer to those crucial aspects which impact the decision I'm making.

Firstly, I want to recognise what Mr I has told us about Halifax and being discriminatory and dismissive to him, based on his age and limited use of the English language. I was very sorry to hear of these concerns and as such I have taken the matter very seriously when considering this complaint in its entirety.

In doing so I have listened to the calls Mr I and his representative had with Halifax through the course of his claim to understand what was said which led Mr I to feel this way.

I can see that Mr I and his representative spoke to Halifax on a few occasions and there was an issue with the line not being clear in one instance, which caused some frustrations, but I can't see that Halifax didn't attempt to assist in answering any questions that were raised or that they did anything inappropriate or set out to offend Mr I in any way. As such, I'm satisfied, from what I've seen, that there wasn't any suggestion of unprofessional conduct or discrimination on the part of Halifax towards Mr I.

I also considered the technical evidence presented by Halifax relating to the disputed withdrawal. Having done so I'm satisfied that the disputed ATM transaction, was carried out using Mr I's genuine card and Personal Identification Number (PIN). I say this because I'm satisfied that the chip on Mr I's card was read when the transaction was processed, and the corresponding PIN was entered. I can also see that only attempt was made to enter the PIN number, which suggests that the PIN was also known by the person entering it.

The representative for Mr I has said that his card has always been in his possession and no one else has access to it, and nor had he shared his PIN with anyone. And I can see that the representative suggested that his card may have been 'cloned.' But it's not generally thought possible to copy the chip on a card, and our service hasn't come across any cases where we felt this was a likely explanation of what happened. So, I haven't seen any persuasive evidence this is what happened in this case. Given this, I'm satisfied that these transactions were made using Mr I's genuine card and PIN.

Further to this, when I consider this alongside what we know about the other transactions that took place on Mr I's account which he has confirmed he recognises - and which seem to have been made on either side of this ATM withdrawal, including one transaction to a retailer that was made on the same day - it's difficult to find a plausible explanation for how it was possible for someone, that was unknown to Mr I, to have gained access to his card and PIN without his knowledge or consent.

In doing so, they would need to have taken Mr I's card from his possession, known his PIN, and used it to withdraw the money from the ATM and then returned it to Mr I without him noticing, so that he was able to make the subsequent transactions he said were his.

Mr I is adamant that it wasn't him and as his card remained in his possession and he had not given it to anyone to make the withdrawal on his behalf, and nor had he made the withdrawal himself. I've carefully considered this, and having reviewed everything, whilst I appreciate what Mr I has said, I cannot rule out the possibility of him making the withdrawal as it seems to be the most likely explanation for what happened here.

It's also more likely than not for someone who was looking to defraud Mr I, to have attempted to withdraw as much as they could, while they could. But that is not what happened here. Nor was there any attempt to check the balance of the account to ensure there were sufficient funds present before making the withdrawal.

The withdrawal took place from an ATM located some ten minutes from where Mr I lives, and Halifax has said that as the ATM is not one of theirs, it was unable to provide CCTV footage. But it advised that Mr I contact the police for footage in the area if it was required.

I can understand Mr I's position on this in that he doesn't agree with Halifax' findings. Based on his recollection, he does not remember making the ATM withdrawal. But as there is no alternative explanation as to how Mr I's card and PIN were used to make the withdrawal, and there is no point of compromise identified, I am satisfied it was reasonable for Halifax to hold him liable for the transaction.

I understand this will not be the outcome Mr I was hoping for, and he will be disappointed by my decision. And I can appreciate the distress this event caused Mr I, especially considering there being mention of it happening before, some years prior. But as I can't see another plausible explanation for what happened, I have to make my decision on what the evidence shows and here I can't fairly ask Halifax to refund this transaction to him.

### **My final decision**

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

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

Sukhdeep Judge  
**Ombudsman**