

The complaint

Mr A complained because Bank of Scotland plc, trading as Halifax, refused to refund him for transactions he said he hadn't authorised.

What happened

In the evening of 23 December 2024, Mr A rang Halifax and said that he hadn't been able to find his card since 20 December. He asked the adviser to check the transactions on his account. The relevant department was closed, but Halifax stopped the card and ordered a replacement.

Mr A rang again the next morning, 24 December. On that call, Mr A disputed ten transactions which had taken place between 10:56 am on 20 December, and 19:02 pm on 23 December. The total in dispute was £2,186.83. The transactions were mainly at supermarkets. They ranged from £2.34 at a service station to £848.65 at a supermarket. The three smallest transactions had been contactless, and the others had been made using chip and PIN. The last transaction, for £848.65, had taken place just over half an hour before Mr A had phoned Halifax to say he'd lost his card.

In reply to Halifax's questions, Mr A said that no-one knew his PIN, or helped him with his banking, and his PIN wasn't written down.

Halifax told Mr A that he'd need to report the matter to the police, and then ring back with the crime reference number. It said it couldn't refund Mr A until the police contacted it with additional evidence. Mr A questioned why he had to do this, and Halifax said it was because the transactions had been made using chip and PIN, and the police would have access to CCTV.

Mr A rang back the next day. He gave Halifax the crime reference number, and said the police had told him it wasn't a police matter. Mr A rang Halifax again, but Halifax said it hadn't heard from the police. Mr A said the police had told him Halifax had to contact the police – but Halifax disagreed and said that wasn't the process.

On 6 March 2025, Mr A complained.

Halifax sent Mr A its final response letter on 22 March. It said that it wasn't refunding the payments. It said that Mr A had confirmed he hadn't written down his PIN or shared it with anyone. He'd said he didn't know how anyone else could have found out his PIN. As Halifax couldn't see how anyone else could have obtained the PIN, it couldn't conclude the payments had been fraudulent. It told Mr A that it was important to keep his PIN safe, and gave some information about how to do this.

Mr A had also complained that Halifax staff had given him incorrect information. In the final response letter, Halifax said that it could refuse to refund payments if there wasn't any evidence to show they'd been fraudulent. It could also ask customers to report unauthorised payments to the police, and the police could then get in touch with Halifax's police liaison team. Mr A had also requested call recordings, which Halifax arranged to be sent to him.

Mr A wasn't satisfied and contacted this service.

When our investigator spoke to Mr A, Mr A told her that he had never let anyone use his card. He said he kept the card loosely in his pocket, and doesn't have a wallet. He said he'd written down the PIN on a sticky note, which he kept attached to the card in case he forgot it. He said that nothing else was missing or lost. He also said he didn't use online or mobile banking.

The investigator didn't uphold Mr A's complaint. She said that as Mr A's evidence was that he'd kept his card loosely in his pocket, it would have been possible for it to have fallen out or been stolen, and then used without his knowledge. But she pointed out that the evidence showed that Mr A had checked his online banking on 22 December – so he ought then to have been aware of the disputed payments which had taken place on 20 December. After Mr A reported the card missing on 23 December, there were no more attempted payments. The investigator explained that a fraudster would typically continue to try to make payments. So the investigator said she wasn't satisfied that it hadn't been Mr A who made the payments himself.

She went on to say that as Mr A had said he had his PIN written down on his card, he was "*grossly negligent*" as defined by the Regulations. She said that customers have a responsibility to protect their account, including keeping the PIN secure, which is part of the account terms and conditions. Mr A had had a fraud claim a month earlier, which Halifax had refunded, so the investigator said Mr A should have been even more vigilant in keeping his account secure – which he failed to do. So Halifax didn't have to refund Mr A.

Mr A didn't agree. He said some of Halifax's complaint manager's letter was incorrect – for example saying he'd reported them on 24th and it had been 23rd. He also said that in writing down his PIN, he'd done so in three different languages.

Mr A also said his statement showed that some of the transactions had gone through on 24 December, after he'd reported the missing card. He said he hadn't told Halifax that his PIN wasn't written down. He said Halifax had never shown him the evidence proving he'd logged on on 22 December. He also said that as he'd written down his PIN in three different languages, he wasn't grossly negligent. He said he'd done this for more than 50 years. He said the police hadn't checked CCTV within 30 days. And he said he didn't do any online banking transactions. He was unhappy that the investigator hadn't attached any importance to the crime reference number from the police, and she hadn't asked the police to investigate. Mr A also said that if someone had taken money using his account in November 2024, someone could have done the same in December 2024.

The investigator replied to Mr A's points, but he wasn't satisfied. Mr A 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.

Mr A has raised multiple points in his submissions to this service. I've understood all of those and considered all he's said and sent us, but in reaching my decision here I've focused on what I think is vital to my conclusions.

What the Regulations say

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 decides the outcome here is whether it's more likely than not that Mr A, or a third party fraudster unknown to him, carried out the disputed transactions.

The regulations also say that account holders can still be liable for unauthorised payments under certain circumstances – for example if they've failed to keep their details secure to such an extent that it can be termed "*gross negligence*." This means that even if Mr A didn't carry out the disputed transactions himself, he would still be liable for them, if he was grossly negligent.

Who is most likely to have authorised the disputed transactions?

There are several reasons why I consider it's more likely than not that it was Mr A, and not a third party fraudster, who made the disputed transactions:

- Technical evidence shows that Mr A logged into his account on 22 December. Mr A said he doesn't do online or mobile banking, but the technical evidence shows otherwise. He asked the investigator for a copy of that evidence, but confidential technical evidence isn't always shared. At that time, the first three disputed transactions would have been visible – but he didn't report them until after the seven other transactions on 23 December.
- I've seen Mr A's bank statements, which show that on other occasions he had used a number of the retailers where the disputed transactions took place. While it's not impossible that a fraudster might use the same local supermarkets and other retailers as Mr A, a typical fraud pattern would be different.
- Mr A reported the transactions just 36 minutes after the last transaction. The technical records show that there were no further attempted transactions – and these would have shown up if any failed attempts had been made. It's improbable that a fraudster would suddenly have stopped in this way.
- Mr A's evidence has changed repeatedly over time. When he reported the dispute to Halifax, he said he hadn't written down or shared his PIN. Halifax's final response then said it couldn't see how anyone could have obtained his PIN because Mr A had said this. When Mr A then contacted this service, in reply to our investigator's questions, he said he had written down the PIN on a sticky note which he kept attached to the card. When our investigator issued her view, saying that doing this was gross negligence, Mr A changed his evidence again. He then said that he'd written down his PIN in three different languages. These repeated changes of evidence cast significant doubt on the accuracy of Mr A's version of events.
- I note that Mr A had made a separate fraud claim in November 2024, a month before the December claim I'm considering here. Halifax refunded that claim, which was for two supermarket transactions totalling £250.13. This decision isn't about Mr A's previous, November, claim, and I haven't looked into that claim. But after that happened, I'd have expected him to have been much more careful about the security of his card and PIN.
- I'm not persuaded by Mr A's argument that as he'd had one claim, it would be possible for someone to do the same again. Halifax had changed Mr A's previous card after his first claim, and the evidence shows that Mr A's replacement card was used for the disputed transactions.

- Mr A also said that having had a previous claim meant someone could use the card *"with or without knowing digits in three different languages written on my card."* I don't agree that the disputed transactions might have been carried out without a correct PIN being entered. The technical evidence shows that the correct PIN was entered.

Taking all these factors into account, I consider it's more likely than not that Mr A carried out the disputed transactions himself.

Gross negligence

I've found that it was most likely that Mr A carried out the disputed transactions himself, so he is liable for them. But for completeness, I've also considered whether he would have been liable if someone else had made them – on the grounds that he was grossly negligent.

As I've said above, Mr A's evidence has changed several times. Taking his latest evidence, however, he said that the card was loose in his pocket, and he'd attached a sticky note to the card on which he'd written down his PIN. Mr A's most recent version is that he'd written down the PIN in three different languages. I don't agree with Mr A that using three different languages was sufficiently secure. Mr A himself clearly knew the three languages, and any potential fraudster might well have done so too – or could easily have looked up a translation online.

Customers have a responsibility to keep their security information secure. I consider that writing down a PIN and attaching it to a card kept loosely in a pocket breaches this. So even if Mr A hadn't made the disputed transactions himself, I'd have found that he had been grossly negligent in failing to keep his payment instruments secure. So he would still have been liable.

Mr A's other points

Mr A raised other points:

- He said Halifax's complaint manager's letter was incorrect – for example saying he'd reported them on 24th and it had been 23rd. Halifax's final response letter did say Mr A reported the dispute on 24th, but he'd made the initial call the evening before. But Halifax's error on the date doesn't change the outcome;
- He also said his statement showed that some transactions had gone through on 24 December, after he'd reported the missing card. I can see that the statements show some of the disputed transactions with a date of 24 December. But payments sometimes appear on statements after the date they actually take place. I've seen the technical payment information which shows the actual transactions – and they all happened before Mr A raised the dispute with Halifax;
- He said the police hadn't checked CCTV within 30 days. He was unhappy that the investigator hadn't attached any importance to the crime reference number from the police, and she hadn't asked the police to investigate. But it's for the police to take their own decisions about what to investigate. The other evidence I've seen about Mr A's complaint is very clear, as I've explained above, and that enables me to have reached a conclusion which I consider is fair and reasonable in all the circumstances of 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 Mr A to accept or reject my decision before 8 October 2025.

Belinda Knight
Ombudsman