

The complaint

Mr I complains Bank of Scotland plc trading as Halifax recorded a marker against him on a fraud database. He doesn't think it's treated him fairly. He'd like to be compensated for the difficulties he experienced because of this.

What happened

A summary of what happened is below.

Mr I held an account with Halifax. In September 2019, it was credited with a payment of £2,600 from a third party, through a bank transfer. Most of the funds were withdrawn and spent. However, the incoming payment was later reported as fraudulent to Halifax.

Halifax restricted the account and following a review, it decided to file a misuse of facility marker at Cifas, as it believed Mr I had been complicit in receiving and benefitting from fraudulent funds. Halifax also closed the account and Mr I withdrew the balance.

Mr I found out about the marker in 2024 after he'd been declined for a business account. He complained to Halifax that he'd not done anything to warrant this. Halifax asked him about the payment, and he explained that he'd bumped into an old school friend randomly on the road, who suggested they could help him make money. They said their friend's account was blocked and asked if they could use his account, to receive and withdraw funds. At the time, he'd been diagnosed with a mental health condition for which he was still getting treatment and was vulnerable.

Mr I said he was told he could keep £500. He withdrew the money for his friend as requested and handed it over, but there were more payments to come. He thought this sounded suspicious and refused to help anymore. He didn't think Halifax had done its due diligence before taking the steps it had, and it should have also disclosed the marker.

Halifax reviewed the complaint and didn't think it had made a mistake with the loading, but given Mr I's personal circumstances agreed to remove the marker.

Dissatisfied, Mr I contacted us. He didn't think the fraud marker should have been recorded at all. And because of it, he said he'd lost out personally and financially, when he'd been unable to secure employment and pursue other opportunities. He said his mental health had also deteriorated.

One of our investigators gathered further information and initially upheld Mr I's complaint, recommending Halifax pay him £250 for his trouble and upset. She didn't think she could reasonably recommend more unless Mr I had proof of how the marker had affected him, both in terms of his personal health and employment. However, both Mr I and Halifax rejected the compensation amount. Mr I said his losses were closer to £400,000. Halifax said the decision to load the fraud marker was correct, considering the information it had, and it had only agreed to remove it as a gesture of goodwill, after what Mr I has said about his personal circumstances. Halifax said no compensation was therefore due.

The investigator sought further information from Mr I and ultimately; she found the fraud marker had been fairly recorded and so there wasn't a basis to pay Mr I anything. In particular, she noted Mr I had said he was told that he could keep £500 for his help in the transaction. And he'd also referenced £20,000 and £5,000. Whilst he'd explained he was just helping a friend, she thought it was reasonable to suggest he would've questioned where this money was coming from and why there was a need for his involvement. She didn't think it was likely Mr I would have expected to profit to such an extent for innocently helping a friend who he'd randomly run into. She went onto explain that after the funds had been received, they were spent in a cash withdrawal and debit card payments and there wasn't any evidence to show that these were given to someone else, or that the debit card payments were made for someone else's benefit. So, from everything she'd seen, she believed Mr I had benefited from the fraudulent funds as well as receiving them.

Mr I disagreed. He said he'd only withdrawn £2,000 which wasn't large enough to profit. He'd left the remaining funds and group when he walked away and believed the bank's records would show he hadn't profited. He reiterated that the bank's lack of due diligence at the time was demonstrable of the poor treatment he'd received. He set out how Halifax's actions had affected him.

When the investigator didn't change her mind, the case was put forward for a decision. The parties were given an opportunity to provide further information. That deadline has now passed, so the case has come to me.

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.

I'm sorry to disappoint Mr I but I'm not upholding his complaint, and I'll explain why.

The marker that Halifax has filed is intended to record that there's been a 'misuse of facility' – relating to using the account to receive fraudulent funds. To file such a marker, it's not required to prove beyond reasonable doubt that Mr I is guilty of a fraud or financial crime, but it must show that there are grounds for more than mere suspicion or concern. The relevant guidance says, there must be reasonable grounds to believe that an identified fraud or financial crime has been committed or attempted, and the evidence must be clear, relevant, and rigorous.

What this means in practice is that the business must first be able to show that fraudulent funds have entered Mr I's account, whether they are retained or pass through the account. Secondly, the business will need to have strong evidence to show that Mr I was deliberately dishonest in receiving the fraudulent payments and knew they were, or might be illegitimate payments. This can include allowing someone else to use their account to receive an illegitimate payment. But a marker should not be registered against someone who was unwitting; there should be enough evidence to show complicity.

To meet the standard of proof required to register a fraud marker; the business must carry out checks of sufficient depth and retain records of these. This should include giving the account holder the opportunity to explain the activity on their account to understand their level of knowledge and intention.

So, I need to decide whether I think Halifax has enough evidence to show fraudulent funds entered Mr I's account, and he was complicit. And I'm satisfied that it has. I'll explain why by addressing what I consider are the salient points.

Halifax has provided evidence that it received a report, saying that funds which entered Mr I's account was because of a fraud. Looking at what was reported, I'm satisfied Halifax had reasonable evidence of fraud. Halifax should have questioned Mr I about the payment, and didn't, but I don't think this would have led to a different decision on whether to load the marker and close his account. I'll say why.

Halifax blocked Mr I's account and card shortly after the incoming payment. It also told him that it would no longer be providing him with banking facilities. Mr I's own testimony recollecting that time is that he went into a branch when this happened to withdraw what was left in the account from a benefits payment. I've thought about this, and I find it highly unusual that if he'd innocently been helping a friend that he wouldn't have told the bank about this. Particularly, as the closure of an account isn't an insignificant thing to happen. This was the account where Mr I usually received his benefit payment.

Beyond this, there isn't any tangible evidence to support what Mr I says happened in meeting a friend and doing them a favour. This might be in part due to the passage of time, but it is also the case that the sums involved were large and in view of this, it would be reasonable to question where the money was coming from and why Mr I could keep a large portion of the payment for doing very little. Weighing things, none of this seems persuasive and this is Halifax's position. Thinking about everything, the circumstances suggest Mr I was complicit in receiving fraudulent funds and benefiting from them. His statements show no funds remained in the account from the £2,600 credit – all of it was utilised in one way or another and there's nothing demonstrable to show that the funds were handed to someone else.

In conclusion, I'm satisfied Halifax's decision to record the fraud marker was reasonable. Mr I has questioned why it didn't tell him about it but there's no requirement on businesses to do that. From what I've seen, Halifax only removed the marker considering Mr I's personal circumstances and as a gesture of goodwill, but not because it had to. The investigator also reached out to Mr I for evidence of his health, but none has been provided and there's no satisfactory reason to explain why. It follows; I don't think Halifax has treated Mr I unfairly. I realise he will be disappointed that I won't be asking the bank to pay him compensation, but these are my conclusions for the reasons given.

My decision completes our review of the complaint.

My final decision

My final decision is that 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 23 December 2025.

Sarita Taylor
Ombudsman