

## **The complaint**

Miss S complains that Bank of Scotland plc trading as Halifax has declined to refund disputed transactions that were made from her account.

## **What happened**

Between 25 January and 9 March 2025 several Automated Teller Machine (ATM) withdrawals debited Miss S's account. Miss S says she didn't make these withdrawals, her Halifax card had always remained in her possession, she'd never given her card or Personal Identification Number (PIN) to anyone, and no one else had access to her card. When Miss S discovered the disputed transactions, she contacted Halifax's fraud department and asked it to refund the withdrawals totalling £5,600. But the bank didn't believe it was responsible for her loss.

Miss S raised a complaint, and in response, Halifax said:

- Miss S confirmed she still had her debit card in her possession, and it had not left her possession.
- Miss S confirmed she hadn't documented her PIN and hadn't shared it with anyone. And she didn't know how someone else would be able to learn her PIN.
- It couldn't see how someone else could've obtained Miss S' debit card or PIN. So there isn't enough evidence to conclude these withdrawals were fraudulent.
- The bank hasn't made any errors, and it would not be refunding the disputed transactions.

Miss S referred her complaint to this service where it was considered by one of our investigators. She was satisfied the disputed transactions were made using Miss S' genuine card and PIN, and in view of the evidence available, she felt they were more likely than not authorised by Miss S herself.

Miss S didn't accept our investigator's findings. As well as other things, she reiterated that her card has never been out of her possession. She said card cloning and skimming are real and sophisticated crimes, and Halifax appear to have made no effort to explore this possibility.

Miss S also expressed dissatisfaction with the way Halifax handled her fraud claim, saying she felt rushed, dismissed, and not taken seriously, and that the bank treated her as if she was at fault. And, she says she was misinformed about CCTV being available, and feels she was denied the opportunity to prove what truly happened.

As no agreement could be reached, the complaint has been passed to me to decide.

## **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.

Having done so, I realise this will come as a huge disappointment to Miss S, but I've reached the same conclusions as our investigator, for similar reasons.

The relevant regulations here are the Payment Services Regulations 2017 (PSRs). 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, the issue for me to determine is whether Miss S carried out the disputed transactions herself or authorised someone else to make them on her behalf.

First of all, it's important to explain that I've seen Halifax's electronic records to show how the disputed withdrawals were processed. From this evidence, I'm satisfied they were carried out using Miss S' genuine card. And, whilst the evidence doesn't specifically show her PIN was entered, as the withdrawals were made in a UK ATM, I'm satisfied it must have been entered successfully, as there is no way of making a successful ATM withdrawal without the use of a PIN. I'm satisfied it was Miss S' genuine card because the evidence shows the chip on Miss S' card was read when each withdrawal was processed. Miss S has said her card has always been in her possession, and she's never given it or her PIN to anyone else. I see Miss S has suggested that her card may have been 'cloned.' But it's not generally thought possible to copy the chip on the card, and our service hasn't come across any cases where we felt this was a likely explanation of what happened. I haven't seen any persuasive evidence this is what happened in this case. So, I'm satisfied that these withdrawals were made using Miss S' genuine card and PIN.

Miss S says she was still in possession of her card when she discovered the disputed transactions and contacted Halifax's fraud department. And based on what Miss S has told us, there is no explanation as to how an unauthorised third party would've been in a position to take the card from Miss S's possession, use it with the correct PIN, and then return it back to Miss S's possession all without her knowledge.

I'm always wary that just because there's no obvious point of compromise, that would mean the cardholder must have made the payment. However, Miss S has not offered any explanation as to how someone she knows could've made these transactions by taking and replacing her card numerous times. I've carefully considered this possibility, and I cannot rule it out as a possible explanation here. However, taking into account Miss S' testimony, I can't fairly ask Halifax to refund these ATM withdrawals based on what she's said. I therefore find it fair for Halifax to have treated these disputed transactions as authorised, as there is no explanation how anyone else other than Miss S could've made them.

I realise Miss S was given incorrect information by Halifax about the retention period for CCTV. In response to our investigator's findings, Miss S said she believes Halifax' error is being used against her. But I'd like to reassure Miss S that this isn't the case. From what I understand, Miss S raised her fraud claim after the 30-day retention period had already passed for all but one of the disputed transactions. And the bank has explained CCTV footage is only retained for up to 30-days, and only where the ATM is located within a Halifax branch. For external or standalone ATMs, CCTV may not be available at all or may be managed by third-party providers with different retention policies. I consider these comments to be in line with the approach to CCTV availability across the financial industry, and in view of Miss S' assertion that her card has always been in her possession, I find Halifax had other available evidence to consider Miss S' fraud claim appropriately without the CCTV footage. Although I appreciate Miss S will disagree.

#### Customer service

Miss S has explained that she felt rushed, dismissed, and not taken seriously when speaking with Halifax staff members, and that the bank treated her as if she was at fault.

I've listened to a number of calls Miss S had with Halifax (nine in total), and I can appreciate why Miss S was frustrated, because the staff members continued to explain that her genuine card was used with her PIN and asked how this could've been possible without her involvement. But I didn't hear anything that makes me think Halifax treated Miss S unfairly. I fully appreciate Miss S wanted Halifax to tell her she'd be receiving a refund, but in the circumstances, I don't find Halifax provided poor customer service.

Overall, I fully appreciate Miss S will be disappointed with my decision. But because Miss S is adamant that her card has always remained in her possession and has been unable to explain how a third party would be able to take a replace the card without her knowledge (because I'm satisfied her physical card was used and not a 'clone'), I find it fair for Halifax to have treated these transactions as authorised. It follows that I won't be asking it to refund the £5,600 to Miss S.

### **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 Miss S to accept or reject my decision before 20 March 2026.

Lorna Wall  
**Ombudsman**