

complaint

Mr K complains that Bank of Scotland plc closed his bank account and placed a CIFAS marker against his name. CIFAS is the UK's fraud alert system; Bank of Scotland trades in this instance under its Halifax brand.

background

Mr K had a current account with Halifax, with a debit card linked to it. In June 2018 a payment of £5,000 was made to the account. Mr K says he knows nothing about that payment. A few days later two payments were made from the account, using Mr K's debit card. Both were made at a currency exchange in Mr K's home town. They totalled just under £4,800.

Some time later, Halifax was contacted by the bank from which the £5,000 payment had come. It said that its customer hadn't authorised the payment – the money had, in effect, been transferred fraudulently into Mr K's account. Halifax wrote to Mr K to say that it was closing his account. It also placed a CIFAS marker against his name.

Mr K says he didn't receive the letter from Halifax. It was only some weeks later – when he tried to pay some money into his account – that he found out that his account had been closed. And it wasn't until he tried unsuccessfully to open accounts with other providers that he found out that there was a marker against his name, making that impossible.

Mr K complained to Halifax, but it believed it had acted fairly. Its records showed that the payments from Mr K's account had been made using his genuine card and PIN, indicating that he had something to do with them. Mr K said however that he had been abroad (or at least boarding a flight) at the time. He had taken his card with him. He said too that he'd kept his PIN safe and hadn't shared it with anyone.

Mr K referred the matter to this service, where one of our investigators considered it. He thought that it was more likely than not that Mr K had authorised the transactions and was therefore linked to the payment to his account. Mr K didn't accept the investigator's conclusions and asked that an ombudsman review the case. In the meantime, the investigator asked Halifax if it had anything more to support its case that Mr K had been involved; Halifax hasn't responded.

my findings

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, however, I've reached broadly the same conclusions as the investigator did, and for similar reasons.

I accept first of all that the payment of £5,000 to Mr K's account was made without the authority of the person from whose account it came. I've no reason to think that person's bank was wrong in reaching that conclusion; and Mr K of course says he knows nothing about the payment and wasn't expecting it. Of course, someone could have put that money in his account without his knowledge; that would only require the payer to know his account number and sort code, both of which could be obtained fairly easily.

However, I think it likely that whoever arranged that payment knew at the time that they would be able to withdraw the money from Mr K's account. The transfer to his account and

the withdrawals from it were part of the same operation. I have therefore considered how the payments from Mr K's account were made.

I'm satisfied first of all that they were made using Mr K's genuine card and PIN. The transaction records show that the electronic chip embedded in the card was read. Whilst it's possible to produce a copy of the magnetic stripe on a card to produce a 'clone', reproducing the chip is rather different. I'm satisfied too that the correct PIN was entered. It's unlikely that someone could correctly guess the PIN, and it's not recorded in accessible format on the card itself.

Mr K says he was travelling abroad and had the card with him at the relevant time. But, wherever he was, his card was being used in his home town, so he can't have taken it abroad with him then. He hasn't explained how that could have happened, and I note that he says he had the card with him after the withdrawals had been made.

In my view, the most likely explanation is therefore that Mr K allowed someone else access to his account. He may not have known how they might use that access, but I agree with the investigator that Halifax had sufficient reason to register a CIFAS marker against his name and to close his account.

my final decision

For these reasons, my final decision is that I don't require Bank of Scotland plc to take any further steps to resolve Mr K's complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 28 June 2020.

Michael Ingram
ombudsman