

complaint

Mr L complains that Bank of Scotland plc (trading as Halifax) unfairly registered information about him with a fraud prevention database.

background

Mr L opened an account with Halifax. Around six weeks later, two payments totalling £1,850 were credited to the account. On the same day those credits were made, withdrawals were made from the account by means of Mr L's debit card and personal identification number ("PIN"). These were the first transactions that had been made on the account.

Halifax was quickly notified by the remitting bank that the credits to the account had been fraudulent, and they were reversed. Halifax subsequently closed Mr L's account and registered information with a fraud prevention database.

Mr L says that he had no involvement in the credits or debits made to his account on that day. He says that he had lost his wallet while at a shopping mall and, although he subsequently found the wallet again, the card had gone. He also says that he had kept a small note of the PIN for the card, also in his wallet. Mr L feels that it was wrong and unfair of Halifax to close his account and register the information.

Halifax did not accept it had done anything wrong in the circumstances, and so was not prepared to remove any of the information it had registered. As matters remained unresolved, Mr L brought his complaint to this service where it was investigated by an adjudicator.

The adjudicator got more information and evidence from Mr L and Halifax, including technical evidence about the disputed transactions. From the overall evidence, the adjudicator was satisfied that all the transactions in question had been made using Mr L's genuine card and PIN and had all been made before the point at which Halifax had stopped Mr L's account.

The adjudicator considered that the circumstances surrounding how Mr L's card had gone missing remained unclear and that Mr L had not mentioned the loss of the card to Halifax at the time, or for some time after his complaint had been raised. The adjudicator also considered that Halifax had given some conflicting information, which had not helped.

In all the circumstances, the adjudicator concluded that Halifax was not obliged to remove the information it had registered with the fraud prevention database, but should:

- refund £61.37 to cover the transaction which had led to Mr L's account becoming overdrawn; and
- pay Mr L £45 in acknowledgement of the way in which his complaint had been handled.

Halifax was willing to pay the recommended settlement. Mr L did not agree with the adjudicator's conclusions and said (through his representative and in summary):

- They are not satisfied that the information Mr L has provided has been taken proper account of, and do not seek compensation; they simply require the information registered about Mr L to be removed.

- It was Mr L, and not Halifax, who was in contact to say the card had gone missing. There is a stamped note to that effect from Halifax. They did not see why Mr L should have to report this to the police. Mr L's brother also had his Halifax card go missing from his wallet and reported it – but he was not asked to report it to the police as well.
- Halifax's case notes from the time are wrong; Mr L's account of when he reported the card, and when he visited the branch, is the accurate one.
- Mr L's original PIN notification was in his coat pocket at home. There was a small note of the PIN in his wallet, but this was in a different compartment from where the card was kept. In any event, it was not the card or PIN that enabled the fraudulent credits to be made, and this important point should not be overlooked.
- Mr L's family has been subjected to several different instances of harassment from different sources. There had been a burglary and, although the card was not taken then, it might be that the burglars obtained Mr L's bank details to use later.
- The registration by Halifax is unfounded and grossly unjust.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

Mr L says he has no idea how the credits or debits came to be made on his account. So his case is, in essence, that all the transactions made on his account – credit as well as debit – were by an unknown third party who must have picked up his lost wallet containing the card and a note of his PIN. The later suggestion made by Mr L's representative that a burglar might have taken bank account details and PIN, yet left the bank card, is improbable.

However, I have not found Mr L's evidence concerning the circumstances surrounding the loss of the card and PIN to be convincing. The details about how the card and PIN came to be lost, which Mr L has put forward in support of his case, do not seem to have been mentioned by Mr L for a considerable length of time. There is contemporaneous evidence on Halifax's system which records that Mr L did not report the loss of the card until much later than he now says.

Halifax has not helped matters by giving some inaccurate information in its response to Mr L's complaint. However, that does not affect the outcome of my decision concerning whether or not it must remove the disputed registration.

After careful consideration of the evidence, I find that Halifax was entitled to record the information with the fraud prevention database and does not have to remove it. So I do not uphold the main part of Mr L's complaint. The recommended compensation for the remaining matters is, in my opinion, reasonable in the circumstances.

my final decision

My final decision is that Bank of Scotland plc (trading as Halifax) must:

- refund £61.37 to cover the transaction which led to Mr L’s account becoming overdrawn; and
- pay Mr L £45 in acknowledgement of the way in which his complaint had been handled.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr L to accept or reject my decision before 2 December 2014.

Jane Hingston
ombudsman