

complaint

Mrs S complains that Bank of Scotland plc (trading as Halifax) will not refund disputed transactions that were made from her current account.

background

Mrs S had a current account with Halifax, for which she had a debit card. She 'lent' her debit card details to a family member so that they could buy Christmas presents online. Mrs S says that the family member then also used her card details to carry out a large number of online gambling transactions. Mrs S explains that the family member to whom she lent her card has a mental health condition that can give rise to excessive and inappropriate spending.

The disputed transactions used up the substantial credit balance in the account and took it overdrawn. When Mrs S found out what had happened, she raised the matter with Halifax. In her view, Halifax should have noticed the transactions and contacted her, which she believes would have brought the problem to light far quicker.

Mrs S asked Halifax to refund the transactions. Halifax did not accept that it was liable to refund the credit balance that had been drawn out of the account, but wrote off the overdrawn balance and paid Mrs S £250.

As things were not settled, Mrs S brought her complaint to this service where an adjudicator investigated it. From the evidence, the adjudicator was not persuaded that Halifax was liable to replace the money that Mrs S's relative had spent from her account. Because of that, the adjudicator did not recommend that the complaint should succeed.

Mrs S did not agree and said she felt that Halifax should have monitored the spending on the account and recognised that there were an unusually high number of payments to a gambling website. She asked for her complaint to be reviewed.

my findings

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

Mrs S accepts that the disputed transactions were made by her relative using the card details that she gave them. But she feels that Halifax should have picked up on the fact that a very high volume of payments were being made to a gambling website, and should have contacted her.

Mrs S has explained that she believed Halifax had a duty to monitor her spending on the account. But banks do not have any general duty to monitor a customer's spending, or to intervene. The card transactions in this case were made to an electronic money provider, using the card details that Mrs S had voluntarily given to her relative.

By lending her card details for someone else to use, Mrs S had gone against the terms of her account with Halifax. The relevant payment rules covering disputed transactions provide that a banking customer may be held liable if they have given their payment details in that way.

Mrs S has told us that the relative had a history of mental illness, and she feels that they were probably out of control of their spending when they used the card details to make the disputed transactions. Whilst I have sympathy for the difficulties created by this type of illness, and accept that Mrs S gave this person her card details as an act of kindness, I am afraid that these factors would not make Halifax liable for the transactions.

Similarly, I know that Mrs S feels she cannot take steps to try to recover money from her relative, given their fragile health, and so is unlikely to get the money back unless Halifax is made to refund it. But I could not, fairly, uphold her complaint because of that.

The rules around transactions made from an overdraft (rather than from money sitting in an account) are different in some respects, but Halifax has already refunded the overdrawn balance in this case and so I do not need to consider that point further.

In all the circumstances, and taking account of the relevant law and rules, I find that Halifax is not liable to replace the money that Mrs S's relative spent with the card details she had given them.

my final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mrs S to accept or reject my decision before 15 July 2015.

Jane Hingston
ombudsman