

complaint

K complains through its directors that Bank of Scotland plc (trading in this instance as Halifax) failed to identify fraudulent activity on the account of one its customers, and that this caused K loss.

background

K employed Mr D as its bookkeeper. Mr D arranged fraudulent transfers from K's bank account (held with a different bank) to his own Halifax account. K – through its directors and its solicitors – says that Halifax should have identified that Mr D was receiving significant payments from K. Those payments were far in excess of his salary, which was paid into the same account. Much of the money paid into the account was spent on gambling. K says that Halifax should have drawn the unusual nature of the account activity to its own bank; had it done so, K would have been alerted to the fraud being perpetrated by its own employee.

Halifax did not agree that it owed any duty to K to monitor the account of its own customer, or to check that the name on payments received match the account number to be credited. (Mr D was able to commit the fraud by changing account numbers on payments, but not the name.) Our adjudicator agreed with the bank, but K did not accept her view and asked that the matter be reviewed by an ombudsman.

my findings

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

The account at the centre of this complaint is not K's; it is the account to which payments were made from K's account. That means that, under our rules, I can only look at a relatively narrow issue – namely, whether or not Halifax properly executed the payments. I have no power to consider K's complaint about the general running of Mr D's account.

Halifax received instructions to credit Mr D's account (by reference to a sort code and account number) with certain payments. I am satisfied that it carried out those instructions. K's bank told it that payments would be applied by reference to account number and sort code only and that no check would be made to ensure that they matched the recipient's name. Halifax was under no obligation to check that they did. It follows that it did all that was required of it when applying the payments in line with the instructions it was given.

my final decision

My final decision is that Bank of Scotland plc did not treat K unfairly in the way it executed the payments. I have no power to consider the general running of Mr D's account.

Michael Ingram
ombudsman