

complaint

Mrs M complains that she's been the victim of fraud and Bank of Scotland plc (trading as Halifax) won't refund her money.

background

Mrs M says in September 2013, she made two payments to a third party for a holiday. She paid a deposit of £1,000 through online banking in mid-September and a further payment of £1,850 towards the end of the month.

Mrs M says she was the victim of a scam – the trip she'd booked through the travel agent was for her husband but it failed to organise his visa and her money just disappeared. She says she's contacted the travel agent but it's not interested in her complaint. She asked the bank to refund her. But she says it has declined her claim.

Halifax rejected this complaint. It says Mrs M made the payments herself and because she used online banking to do so, it isn't appropriate to make a claim under the chargeback process. And because she set the payments up herself the bank did nothing wrong and it can't be responsible if Mrs M is now, nearly four years later, unhappy with the service she's received. It says it explained that it would raise an *indemnity* with the other bank and see if any of Mrs M's money could be recovered, but that it thought this unlikely given the amount of time that had passed.

Our adjudicator looked at this complaint and said she didn't think it should be upheld. She explained the rules governing the *chargeback* process and said Mrs M's payments weren't covered by it. And she said that because she'd set the payments up herself and the bank had processed them in accordance with her instructions, she didn't think Halifax had done anything wrong.

Mrs M disagreed so the complaint comes to me to decide. She says she complained to Halifax in 2013 and it should've been able to refund her money then. She says the service she's received from the bank has been poor and she wants it to refund her £2,850 and pay compensation as well.

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 considered the evidence, I'm afraid I have to tell Mrs M that I think the adjudicator has reached entirely the right outcome here. To be honest, there is very little I can add to what she's already told Mrs M and I think the adjudicator has set out the position very clearly.

Mrs M says she the unfortunate victim of a fraud – but this doesn't mean that Halifax is automatically responsible for putting things right. In this case, Mrs M made the payments herself. And as the money was sent to an account held with another bank, Halifax wouldn't have been able to stop the payment or return the money itself.

Our adjudicator explained why it wouldn't have been possible for Halifax to make a chargeback claim. *Chargeback* is a process under card scheme operating rules – Visa or Mastercard – which allows a card issuer to reclaim debit card payments made by its customer from the bank of the person who received the payment. But there is no *right* to a chargeback because it's a process agreed between banks and payment card schemes rather than banks and their customers.

But in this particular case, Mrs M had no realistic prospect of making a successful claim. She told us she'd made both payments through her online bank account – and Halifax confirms this – and the chargeback process simply doesn't cover this type of payment. It can only be considered where the customer makes a payment by *debit card*.

Halifax told us it had contacted the other bank where Mrs M's money was sent to see if any of it remained in the account. But, unsurprisingly, nearly four years later, the other Bank says the money was withdrawn and is no longer there.

Mrs M says Halifax should've acted more quickly – she says she first complained about this in 2013 – but the bank didn't do anything. Halifax disagrees. It says it has no records of Mrs M raising this at the time.

In situations like this – where both parties disagree on something and there's no evidence to confirm what happened at the time – I have to weigh up what I think, *on balance*, is more likely to have happened based on the evidence I do have.

I've seen copies of customer contact records – notes made by Halifax whenever it has contact with a customer. And although there's evidence of contact between Mrs M and Halifax throughout 2013, there's no record of this matter being discussed at the time. Taking this into consideration I don't think Halifax could've done anything sooner. It didn't know about Mrs M's complaint until 2017.

Given my finding that Halifax hasn't caused – or been able to prevent – Mrs M's loss, I can't require it to 'put that right' by reimbursing her. I appreciate why Mrs M is so unhappy about what happened. It doesn't seem fair that she should lose the money to someone who isn't entitled to it. But Halifax couldn't have prevented the money being transferred once she had input a valid account number and sort code.

I realise that Mrs M is likely to be disappointed by my decision. But I don't think Halifax has made a mistake, so I don't think it would be fair for me to require it to reimburse the money.

my final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 12 October 2017.

Andrew Macnamara
ombudsman