

complaint

Mr A complains that Bank of Scotland plc has registered a CIFAS marker against his name. CIFAS is the UK's fraud prevention service and Bank of Scotland in this case trades under its Halifax brand.

background

In October 2016 Mr A opened an account with Halifax. The bank was to send him a card and PIN. Shortly after he opened the account it was credited with two payments totalling £500. Very soon after those credits were made, cash machine withdrawals were made for the same amounts, using Mr A's card and PIN.

Halifax was contacted by the banks which sent the payments. Their customers had said – and their banks had accepted - that the payments were fraudulent. The customers hadn't made them or authorised anyone else to make them. In effect, Mr A's account had received stolen funds.

Halifax closed Mr A's account and placed a CIFAS marker against his name. He said that he hadn't received his card or PIN and that he knew nothing about the deposits to the account. He suggested that someone had intercepted his card and PIN in the post. Halifax didn't accept that and Mr A complained to this service.

One of our investigators considered Mr A's complaint. He didn't believe that Halifax had provided sufficient evidence to show that Mr A had received the card and PIN. For that reason he thought that Halifax had treated Mr A unfairly when it placed a CIFAS marker against his name.

Halifax didn't accept the investigator's view and asked that an ombudsman review the case. I did that and issued a provisional decision. I thought it likely that whoever was responsible for the fraudulent credits paid into the account must have known that they would be able to withdraw the funds. I was satisfied that the withdrawals had been made using the genuine card and the correct PIN. I thought too that it was more likely than not that the card and PIN had been delivered to Mr A's address – rather than both being delivered to a different address or intercepted in the post.

I thought it was likely that Mr A had been involved and so concluded – provisionally – that Halifax hadn't treated him unfairly. He responded to say that he thought my provisional conclusions had been based on assumptions, not evidence, and asked for proof that the card and PIN were delivered to his address.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I haven't however changed my overall view from that set out in my provisional decision.

I'll address first of all Mr A's suggestion that I should prove – to his satisfaction – that the card and PIN were safely delivered to his address. My role is not to present evidence, it's to consider and weigh up the evidence that's available to me and then to reach a decision about Mr A's complaint on the basis of that evidence. And that decision must be based on what in my opinion is fair and reasonable.

The bank's evidence indicates that the card and PIN were sent separately on different dates to Mr A's address, and I'm satisfied that they were. Given that the bank only had Mr A's correct address linked to his account, it's likely too that they were correctly addressed. And since the vast majority of post is correctly delivered, it's more likely than not as well that the PIN and the card were both safely delivered. It's very unlikely that neither was safely delivered and even less likely that they both fell into someone else's (that is, not Mr A's) hands.

In response to my provisional decision Mr A said that he can't have used his card because he never received it. I think however that the evidence indicates that he did –for the reasons I've explained. And, as I've indicated, I believe that whoever made the payments into Mr A's account knew as well that they'd be in a position to withdraw that money as well. In my opinion that indicates some involvement on Mr A's part.

Mr A also asked where the withdrawals took place. The bank's evidence shows they were made several miles from his home at the time, but in the same city. I regard that information as neutral however – in the sense that it doesn't make it more likely that Mr A was involved, but nor does it make it any less likely.

For these reasons I don't believe Halifax treated Mr A unfairly in placing a CIFAS marker against his name.

my final decision

My final decision is that I don't require Bank of Scotland plc to take any further steps to resolve Mr A's complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 17 April 2020.

Michael Ingram
ombudsman