

The complaint

Mr B complains Bank of Scotland PLC, trading as Halifax, refuses to refund him for a transaction on his account he says he didn't authorise.

What happened

Mr B says he turned on his phone on 24 October 2024 and noticed an SMS on his phone from Halifax which he couldn't open. He called Halifax and discovered a transaction on his account he says he didn't authorise. Mr B says he thinks his phone was hacked and as a loyal customer of Halifax it should refund him for this unauthorised transaction.

Halifax says it investigated Mr B's complaint but has decided to hold him responsible for it. It says the evidence shows the transaction was completed online using Mr B's credit card and it was verified via a one-time passcode (OTP) sent to Mr B's registered phone number. And as Mr B has confirmed the OTP was sent to the correct number and no one else has had access to his phone, it says Mr B must have been responsible for it.

Our investigator considered the complaint and decided not to uphold it. Mr B didn't agree so the complaint has been passed to me to consider.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

A consumer should only be responsible for transactions made from their account that they've authorised themselves. Mr B has said he didn't give any permission for the transaction in dispute to be made but Halifax believes he did. My role then is to give a view on whether I think Mr B more likely than not authorised the transaction, based on the evidence I have available.

Halifax has provided evidence detailing the transaction in question. This shows it was an online transaction, made using Mr B's credit card details. It also showed it was correctly verified using an OTP. Halifax has shown us that the only registered number on Mr B's account is the number he has confirmed he is still using, and this is the number the OTP was sent to. Mr B has also sent us evidence of the OTP in question which I can see clearly shows the passcode needed to authorise the transaction of £2,460.29. So, I am satisfied this OTP was sent. The evidence from Halifax also shows the OTP was correctly entered to verify the payment was genuine, and I think it's likely the transaction would not have been successful had the correct OTP not been entered.

Mr B thinks his phone has been hacked while it was in his possession and that is how the unauthorised transaction happened. Mr B initially told Halifax that his phone wasn't with him, but it was in another part of his premises when the fraud took place. He then told us that it was next to him and turned off while he slept. In either event, Mr B has confirmed he lives at home alone and no one else has had access to his phone. Mr B says when he turned his phone on the next day, he saw the message from Halifax, but he couldn't open it. And when

he tried, his phone kept shutting down. I've thought about what Mr B said but this alone is not enough to persuade the transaction was carried out by fraudsters, and I'll explain why.

We have seen instances where a third party is able to control someone else's phone remotely using software downloaded in the form of a remote access app. For this to work I understand the app must be downloaded first and then an access code has to be shared with the fraudster in order to give them remote access to the device. We asked Mr B if he had received any suspicious calls or texts, but the only thing he told us about is the text from Halifax with the OTP. We also asked Mr B if he had shared any passcodes with anyone, but his evidence throughout has been that he hasn't. So, without any evidence to show some tampering with his phone, or suspicious app operating on the device I don't think it's fair and reasonable to uphold the complaint on this point.

Mr B has questioned why this transaction was not flagged by Halifax as suspicious, considering he only ever uses the card for 0% balance transfers or other card offers. And the transaction in dispute was a card payment into another account which attracted a high interest rate and a fee. I have looked at Mr B's transaction history and I agree the account is usually used for balance transfers. However, I have noticed other transactions such as an online payment to a retail company on 15/11/2021 for £539. I've also seen several transactions of a similar amount or higher than the transaction in dispute. Usually we would expect large payments, perhaps international payments, or payments significantly out of character to be flagged. The payment in dispute was for a relatively low sum in relation to Mr B's regular activity and there was no indication that this could have been fraudulent – like incorrect card details entered or failed OTP attempts. So, I don't think Halifax did anything wrong by not blocking this transaction.

While I know this outcome will come as a disappointment to Mr B, I am not persuaded that the transaction in dispute was unauthorised, so I won't be asking Halifax to refund the transaction in dispute.

My final decision

For all the reasons outlined above, I am not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 21 November 2024.

Sienna Mahboobani
Ombudsman