

The complaint

Mr R is unhappy that Bank of Scotland plc trading as Halifax hasn't agreed to refund him fees he incurred when he instructed a solicitor in connection with a successful fraud claim.

What happened

Mr R contacted Halifax in August 2023 after he was concerned he'd been a victim of fraud. He phoned Halifax several times to explain what had happened. Feeling that no-one at Halifax was able to help him, he approached a firm of solicitors for assistance.

After the solicitors complained on Mr R's behalf, Halifax agreed it had made an error by not asking Mr R more questions about payments he was making. Had it done so, Halifax said it was possible it could have prevented further payments being made. To put things right, Halifax refunded transactions, amounting to more than £4,000, which Mr R had made after he contacted Halifax.

In line with Mr R's agreement with the solicitors he'd instructed, he paid the solicitors a 25% success fee. Mr R feels that Halifax should be responsible for paying this.

When he complained to Halifax, saying that he felt he'd had no option other than to seek external help, Halifax upheld his complaint in part. Halifax said it had no record of a complaint Mr R said he'd submitted online in January 2024. But when he phoned for an update later in the month, Halifax acknowledged that the line was cut off and Mr R didn't receive a call back. This meant Mr R had needed to call back in order to go through the whole complaint process again. Halifax said this level of service fell short of its normal standards and paid him £75 by way of apology.

Mr R didn't feel this went far enough to resolve things and so he brought his complaint to us.

Our investigator didn't feel he had seen enough to be able to uphold Mr R's complaint that Halifax hadn't done enough to put things right. Whilst our investigator was sympathetic to Mr R's position, he didn't agree that his only option had been to consult a solicitor or claims management firm. And the investigator thought the amount already paid by Halifax was fair and reasonable overall to reflect the impact on Mr R of its admitted poor service.

Mr R disagreed with our investigator, mainly saying that he didn't want another customer to have to go through the same situation as him and '*...make decisions that are not in their favour.*' He was also concerned that Halifax hadn't provided full call recordings as the calls supplied didn't match how long he'd been on the phone.

Our investigator offered to follow this up with Halifax, but Mr R didn't want this to hold up his complaint and said it would be unfair as Halifax had already had more than enough time to provide evidence. He said he felt it was evident from the calls provided that he'd made efforts to report the fraud and that Halifax had failed to respond as it should have done. He was frustrated that Halifax hadn't appreciated it should have recognised he was making a complaint and responded accordingly.

The investigator wasn't persuaded to change his mind. So as the complaint hasn't been resolved, it has come to me for a final decision.

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.

This includes listening to all the call recordings supplied and I've been able to hear Mr R's discussions with various call handlers at Halifax and with our investigator.

I sympathise with Mr R. I can completely understand how worried he was when he first suspected that he had become caught up in a scam and he was concerned he'd lost his money. But having thought about everything I've seen and been told, I've independently reached the same overall conclusions as our investigator. I'll explain why I say this.

Halifax has agreed that it could have done more when Mr R first got in touch and shared his fraud concerns. So I'm going to focus on the question of fair redress – in other words, has Halifax done enough to put things right.

It's my understanding that Mr R believes that Halifax left him no option but to seek help elsewhere. And so he feels that Halifax should pay him an amount that covers the solicitors' fee he incurred.

Our approach to redress is to look at what's fair and reasonable in all the circumstances of a complaint. One way we would try and do this impartially is to put Mr R in the position he'd be in if Halifax hadn't been responsible for poor service issues. So I've thought carefully about the overall service Halifax provided to Mr R when he made contact about his fraud concerns.

Leaving aside the admitted poor service, I think it's fair to say that call handlers Mr R spoke to at Halifax did make efforts to try to understand his concerns. They listened patiently as he described what had happened and asked questions to check their understanding. Some of the initial delay identifying the right department that could have helped Mr R was due to Halifax needing to understand the circumstances of what Mr R called 'fraud'. I don't think that was an unreasonable approach when Mr R knew who had his money and he confirmed that he had authorised the payments. Halifax gave him a direct dial number to call that would get him through to the appropriate team that could help him and tried to connect him.

I appreciate it was frustrating for Mr R that he was often put on hold for what must have seemed a while. But it's also clear from the calls I've heard that at no point over the two days he was in direct contact with Halifax on the phone did Mr R ever mention that he wanted to complain about the service Halifax was providing. And he's told us: '...complaint was not my intention and priority because of time constraints.'

So I can't fairly say that Halifax should have realised that Mr R wanted to complain. I think the first time Halifax could have realised that Mr R was unhappy about the way it was treating him was when it was contacted by the solicitor Mr R instructed to complain on his behalf.

Halifax dealt promptly with the complaint brought via Mr R's representative. I've no reason to think the situation would have been any different had Mr R complained himself to Halifax. I haven't identified any good enough reason to persuade me that Mr R was prevented from complaining direct to Halifax. The reason he says he didn't was because: '...My intention was never to log a complaint anyway I wanted my money back.'

As a result, I can't fairly hold Halifax responsible for solicitors' fees incurred when Mr R chose to instruct them to deal with Halifax on his behalf. And I haven't identified any other financial loss that Halifax needs to redress.

That said, fair compensation needs to properly reflect the impact on Mr R of Halifax's service failing.

I agree that Halifax could have been more proactive when Mr R got in touch to explain what had happened. It sounds like one of the calls was cut-off part way through. In those circumstances, it's reasonable to expect that Halifax should have tried to re-establish contact with Mr R. Had it done so, it's likely that he wouldn't have had to explain everything from the start all over again. I think this was needlessly upsetting and frustrating for Mr R when he was already feeling very anxious about his financial situation.

The £75 redress Halifax has paid in respect of its admitted service failing seems fair – bearing in mind that I haven't identified any other shortcomings in the service Halifax provided here. If it hadn't already made this payment, I can't fairly say that I have seen enough to make me think it would be fair and reasonable to award any more than £75 in respect of Mr R's complaint. It's in line with the level of award this service would make in similar cases and I consider it fairly reflects the extent and impact on Mr R of the shortcomings in the service Halifax provided on this occasion.

If I have not referred to each and every point mentioned during the course of the correspondence about this complaint, it's because I have nothing further I can usefully add to what our investigator has said already. In my decision, I have concentrated on what I consider to be the main points that affect the outcome of this complaint.

We are a free to use service with easy access and my approach simply reflects the informal nature of the Financial Ombudsman Service as a free alternative to the courts. There is no requirement for professional assistance. It was open to Mr R to bring his complaint to us without using solicitors. So we do not normally reimburse consumers in this situation for the professional fees they have incurred.

I'm sorry to disappoint Mr R. But as I'm satisfied Halifax dealt with the complaint fairly I'm not telling it to take any further action.

My final decision

My final decision is that I don't uphold Mr R's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 18 June 2024.

Susan Webb
Ombudsman