

The complaint

Miss A has complained that Bank of Scotland Plc trading as Halifax won't refund her for transactions she didn't authorise.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

Between 29 July 2023 and 30 July 2023, Miss A's debit card was used outside of the UK to make transactions totalling £3,000. The transactions were all made using her genuine card and PIN.

Miss A told Halifax that her card and PIN had been stolen while she was in the UK and that she didn't authorise the transactions. But Halifax refused to refund any of the money. It commented that it would expect a fraudster to withdraw as much as possible in a short time and it questioned why they would wait to travel outside the UK to commit fraud on her account.

It didn't accept Miss A's explanation that she didn't know she could call Halifax as she had previously called in 2022. It also said it had educated her previously on keeping her account details safe as in 2019 and she provided access to someone to use her card and PIN.

Miss A wasn't satisfied and so she complained to this service. She said she was unhappy Halifax had rejected her fraud claim and with the way it had handled her complaint. She wanted it to reimburse the money she lost and to pay compensation for the distress and inconvenience caused by its handling of the claim.

Halifax has further commented that the transactions were card present transactions which were all verified using the correct pin which was stored in an unprotected mobile phone which was lost with the card.

It explained that of the transactions took place outside the UK and has questioned why, if the mobile phone and debit card were lost on 29 July 2023, the person waited until they were outside the UK to start using it.

Our investigator didn't think the complaint should be upheld. She explained Halifax had provided technical evidence showing Miss A's genuine card and PIN were used for the transactions and she was satisfied there was a point of compromise because her card was lost along with her phone which contained her PIN written on a piece of paper.

She also noted the card was first used over 24 hours after Miss A says her phone and card were lost and she wasn't persuaded that an unknown third party would take the risk of waiting over 24 hours before using the card as this would increase the likelihood of Miss A noticing the card was missing and cancelling or blocking it immediately. She also questioned why a third party would have waited until they'd left the UK before using the card.

Finally, our investigator noted that there had been an attempted credit into the account on 1 August 2023, which was over 24 hours after the last disputed transaction. She explained that she didn't think a third party would credit an account and that she would expect to see the account drained quickly before the loss was reported.

Overall, she wasn't satisfied that Miss A had been a victim of fraud and so she said Halifax didn't need to do anything further to resolve the complaint.

Miss A has asked for her complaint to be reviewed by an Ombudsman. She said she didn't say her card was stolen on 27 July 2023 because she didn't know it was lost at that time. She received a message from Halifax on 1 August 2023 to confirm she was the person who made the withdrawals. She replied that it wasn't her and went to the branch to confirm it wasn't her who made the withdrawals. She told it that she last used her bank card on 27 July 2023 in a supermarket, but this wasn't when she discovered the card was missing.

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.

Having done so, I've reached the same conclusion as our investigator. And for largely the same reasons. I know Miss A feels strongly about this complaint, and this will come as a disappointment to her, so I'll explain why.

Miss A has explained that her phone and debit card were lost or stolen and that, unfortunately, the PIN was written on a piece of paper inside her phone. Transactions totalling £3,000 were then made outside the UK using her genuine card and PIN.

The disputed payments were made using CHIP and PIN and happened outside of the UK over a period of two days. There was also an attempted credit into the account on 1 August 2023. I noted the comments Miss A has made about how she learned about the disputed payments, but I've thought about the available evidence and I agree with our investigator that the circumstances aren't consistent with her having been the victim of fraud. This is because fraudsters usually use stolen cards as quickly as possible because of the likelihood the owner will realise the card is missing and cancel it with their bank.

However, even if I did accept that Miss A was the victim of fraud, as a general rule it's reasonable for Halifax to hold Miss A liable for transactions where the evidence suggests she authorised them. This doesn't necessarily mean Miss A made the transactions, but by keeping her PIN together with her debit card, she's allowed someone to make them.

Miss A has said her phone and debit card were stolen and that the PIN was with the card, in which case, she has breached the terms and conditions of her account - and Halifax is entitled to hold her liable for the loss. In the circumstances, while I sympathise with the situation Miss A now finds herself, I cannot fairly ask that Halifax refund this money to her.

Compensation

Miss A has said that she suffered distress and inconvenience as a result of the way Halifax investigated the disputed payments, but I can't see that the service she received fell below a reasonable standard and so she's not entitled to any compensation.

Because of this, I'm satisfied Halifax took the correct steps after being notified of the disputed transactions, so I can't fairly tell it to do anything further to resolve this complaint.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss A to accept or reject my decision before 10 January 2024.

Carolyn Bonnell
Ombudsman