

The complaint

Mr W complains that Bank of Scotland plc trading as Halifax refused to open an account for him when he did not consent to the appointment being recorded.

What happened

Mr W attended an appointment at a Halifax branch to open a savings account which paid a higher rate of interest than his existing savings account. He says the branch staff told him that the appointment would be audio recorded, and she asked Mr W if he could consent to this, but Mr W declined to consent to this. He asked the staff member the purpose of the recording, and he was told it was for training and monitoring. Mr W did not agree to the recording, so the staff member (and later a senior manager) told Mr W that the appointment could not proceed since he hadn't consented to the recording. Mr W made a complaint to Halifax.

Halifax did not uphold Mr W's complaint. They said there were numerous reasons for the audio recording, such as training and monitoring, and to ensure he's been correctly advised of all stipulations and terms and conditions within the accounts they offer. Halifax said they also have a duty of care to look after their customers and under Customer Regulations, they need to evidence this if this is requested.

Halifax said that they also use recordings for complaint purposes if customers claim they've been given incorrect information, or they weren't advised of a certain condition. They said as per their terms and conditions, they only share his personal information internally and with pre-agreed third parties if this is required. Halifax said it was Mr W who refused to allow them to record the interaction, which in turn led to him being unable to open an account in branch. Mr W brought his complaint to our service, and he commented on how Halifax investigated his complaint.

Our investigator did not uphold Mr W's complaint. He said Halifax were entitled to refuse to proceed with Mr W's appointment when he declined to consent to an audio recording. He wasn't denied access to a higher interest savings account because he could have opened one online or by phone. He said Halifax responded to Mr W's complaint within a reasonable timescale and they re-sent their response after it failed to arrive.

Mr W asked for an ombudsman to review his complaint. He said while he has no problem with the recording being Halifax's process, he should be allowed to withhold his consent and in doing so, be able to access products and services for Halifax.

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.

I'd like to explain to Mr W that it is not within this service's remit to tell a business how they should run their account opening procedures, such as if they should proceed with an appointment if a customer doesn't give their consent to an audio recording of the

appointment. It would be the role of the regulator – the Financial Conduct Authority, who have the power to instruct Halifax to make changes to their policies and procedures, if necessary.

I must explain to Mr W that complaint handling by a business isn't a regulated activity and as such, the issues he's raised that relate directly to how Halifax have investigated his complaint, such as the level of investigation they conducted does not come under my powers to consider. But I do note they responded to Mr W's complaint within the timeframes we would expect, and when Mr W didn't receive their response, they reissued this.

I've noted the strength of feeling that Mr W has on him not being able to open an account in branch without him consenting to a call recording. It is Mr W's right to not give his consent to an appointment being recorded. But Halifax also have the right to not continue an appointment if Mr W doesn't provide his consent. This is because as they explained in their final response letter that they have a duty of care to look after their customers and under Customer Regulations they need to evidence this if it is requested. So Halifax's position is that a call recording will be able to evidence exactly what was said in the appointment. Without Mr W's consent to the audio recording, they wouldn't be able to prove what was said in the appointment.

I don't find this to be unreasonable. Mr W is given the choice whether to consent or not. And Halifax's privacy policy which they sent him sets out how they would use his personal data. If Mr W doesn't want to consent to the call recording, there are other ways he could open accounts with Halifax such as over the phone (albeit it's probable a phone call would be recorded) or online. I'm aware that Mr W doesn't want to use online banking, but Halifax have made other avenues available for account openings other than recorded calls in the branch. So while I acknowledge Mr W's position on call recordings, I can't conclude that Halifax were unfair to not proceed with the appointment when they did not get Mr W's consent to the call recording. So it follows, I don't require Halifax to do anything further.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 12 April 2024.

Gregory Sloanes
Ombudsman