

The complaint

Mrs M has complained that Bank of Scotland plc (trading as Halifax) won't refund the money she spent on a roof replacement which she says was not finished to the proper standard.

What happened

Mrs M was looking for a tradesperson to carry out a roof replacement. A family member found someone, and Mrs M chose them. They quoted £3,000, which Mrs M withdrew in cash from her Halifax branch and a cash machine.

Mrs M says the trader later changed the price, that her neighbour felt the work done was substandard, and that the trader said they'd return but didn't. So she says she's been scammed. Her representative feels Halifax should have prevented this by invoking the Banking Protocol and calling the police when Mrs M withdrew the money.

Halifax didn't think they were liable for Mrs M's loss. She'd given a genuine reason for withdrawing the money, the amount was reasonable, and they had no basis for suspicion.

Our investigator looked into things independently and didn't uphold the complaint. Mrs M's representative appealed, so the complaint's been passed to me to decide.

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 appreciate that this was a most stressful matter for Mrs M, and I appreciate why she feels that her money should be returned.

It's not clear whether this is a matter I'd consider to be a scam – an intentional attempt to defraud Mrs M – as opposed to a civil dispute between her and the tradesperson. I can't know what was said verbally between the two parties about price or any promise to return, and I don't have substantive evidence about the quality of the work done. This matter does not bear many signs of a scam, such as cold calling, coercion, the work being unnecessary, unreasonable prices, or the tradesperson not showing up at all. And generally speaking, I would often consider a dispute about the quality of goods and services to be a civil matter.

With that said, to make sure that we've considered all the key points for Mrs M, I will treat the matter as a scam for the purposes of this decision. But I'm afraid that even if I do so, I can't fairly hold Halifax liable for Mrs M's loss. I'll explain why.

It's not in dispute that Mrs M authorised the cash withdrawals involved. So under the Payment Services Regulations she is liable for the loss in the first instance. And broadly speaking, Halifax had an obligation to follow her instructions – the starting position in law is that banks are expected to process payments that a customer authorises them to make.

Halifax did ask Mrs M why she was making the withdrawal, and Mrs M was up front about the fact she was paying for a roof replacement. That's a legitimate thing to pay for, it's not particularly unusual for tradespeople to ask for cash payments, the amount she was taking out was reasonable for the purpose, and the amount was not so large as to be remarkable in this situation. So I can see why Halifax didn't feel they needed to intervene further.

But perhaps most importantly, even if Halifax *had* asked further questions, they would not realistically have uncovered any reasonable cause to invoke the Banking Protocol. Mrs M was not cold called, nor coerced into having her roof replaced unnecessarily. She decided for herself that she wanted her roof replaced, looked for a tradesperson, and of her own accord she chose someone who a family member found for her. The price she told the bank was reasonable. And at the point Mrs M withdrew the money from Halifax, the factors her representative gave for thinking this was a scam – the alleged later price change, unfinished work, and failure to return – *hadn't happened yet*.

So at the time, the matter would have looked broadly legitimate. Halifax didn't have a good reason to stop Mrs M from accessing her own money, let alone to invoke the Banking Protocol and call the police. Indeed, it would have been unreasonable for Halifax to take such severe actions in a situation where they had no reasonable cause for concern at the time. I would not expect a bank to call the police every time a customer wants to pay for home improvements just on the off chance that there's a later issue. I'd only expect the bank to invoke the Banking Protocol if they had sufficient cause for concern at the time – which Halifax did not reasonably have here.

Mrs M's representative pointed out that in other situations, banks have invoked the Banking Protocol or we've told the bank it should have done so. But we look at each case on its own merits. And in *this* situation, I've found that Halifax did not have sufficient reason to invoke the Banking Protocol. The representative also made some suggestions about how they felt the system should change more widely. I should explain that we're not the regulator, we're here to resolve individual complaints informally. So I'm not best placed to comment on the representative's suggestions for wider changes.

Lastly, I've considered what Halifax did to try to recover Mrs M's money after she told them she thought she'd been scammed. But as the money was withdrawn in cash, there was nothing more Halifax could do to recover it. And as our investigator explained, these cash withdrawals were not covered by other initiatives for recovering money lost to scams.

So while I do sympathise with Mrs M, I don't think Halifax can fairly be held responsible for her loss. And so I can't fairly tell Halifax to refund Mrs M's money in this case.

My final decision

For the reasons I've explained, I don't uphold this complaint.

This final decision marks the end of our service's consideration of the case.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 1 November 2023.

Adam Charles
Ombudsman