

## **The complaint**

Ms B and Mr W are unhappy with the service they received from Bank of Scotland plc, trading as Halifax, surrounding their submission of a direct debit indemnity claim.

## **What happened**

Ms B and Mr W had a direct debit set up from their Halifax account to pay a utility company, with an agreement whereby the monthly payments would reduce from £70.27 to £27.29 for the months August through November 2021. However, the utility company didn't take the reduced tariff amount for these months, and instead took the higher £70.27 amount.

Ms B and Mr W contacted Halifax in December 2021 and submitted a direct debit indemnity claim via telephone, but this wasn't actioned. Ms B and Mr W then submitted a hand-written claim in a Halifax branch a few weeks later, but again their request wasn't actioned by Halifax. Ms B and Mr W went into branch again a few weeks after that, in January 2022, when a member of staff completed the claim form with them. However, Ms B and Mr W then received a letter from Halifax rejecting their claim. Ms B and Mr W weren't happy about this, or with the service they'd received from Halifax staff, so they raised a complaint.

Halifax looked at this complaint. But they didn't feel they'd acted unfairly towards Ms B and Mr W in how they'd managed the situation, and they didn't feel that the indemnity claim submitted by Ms B and Mr W in January 2022 had been a valid claim. Ms B and Mr W weren't satisfied with Halifax's response, so they referred their complaint to this service.

One of our investigators looked at this complaint. They felt Halifax had rejected the claim because of a misunderstanding of when Ms B and Mr W were attempting to claim from. So, they recommended that Halifax should pay £150 to Ms B and Mr W as compensation for any trouble and upset caused. However, our investigator didn't recommend that Halifax should reimburse the direct debit overpayments as Ms B and Mr W had originally requested.

Ms B and Mr W didn't agree with the recommendations put forwards by our investigator and felt Halifax weren't being held to account for not honouring the direct debit guarantee. Ms B and Mr W also felt a higher compensation amount for the trouble and upset they'd incurred should be merited, and so the matter was escalated to an ombudsman 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.

I feel it's important to begin by confirming that this service isn't a regulatory body of a Court of Law. As such it's not within the remit of this service to 'hold a business to account' for its actions, or to declare that a business has acted in an unlawful or non-regulatory manner. Such declarations would be for a regulatory body or a Court of Law to potentially make.

Instead, this service is an informal dispute resolution service with a remit based on fairness of outcome. In this specific instance, this means that I've considered two aspects of this

complaint: Whether a fair eventual outcome has occurred, and whether Ms B and Mr W received a fair standard of service from Halifax surrounding this matter.

Regarding this second point, I note that Ms B and Mr W have questioned whether Halifax's staff are appropriately trained. I haven't considered this point, because it sits outside of the remit of this service as described above. Instead, I've focussed on the outcomes of Ms B and Mr W's interactions with Halifax, and whether I feel those specific outcomes were fair.

Ms B and Mr W have explained they first contacted Halifax about this matter by telephone in December 2021, and that they also submitted a direct debit indemnity claim in person at one of Halifax's branch later that same month. Halifax have no record of Ms B and Mr W contacting or visiting them about this matter in December, with Halifax's first record of Ms B and Mr W attempting to raise an indemnity claim with them being in January 2022 – the claim which Halifax then rejected.

In situations such as this, where the positions of the disputing parties contradict each other, I have to decide – if I feel it's reasonably possible to do so – which of the two versions of events I feel is most likely to have happened, on balance, and in consideration of all the information and evidence available to me.

In this instance, I feel it's more likely than not that Ms B and Mr W did contact Halifax by phone and did visit a Halifax branch in person as they claim. This is because I find Ms W and Mr B's testimony to be persuasive, and because I feel it's more likely that their phone call and visit weren't logged by Halifax rather than that they didn't occur.

Regarding the direct debit indemnity claim itself, Halifax appear to have rejected the claim received by them in January 2022 because they believed Ms B and Mr W were attempting to reclaim overpayments from December 2020 to November 2021, which was a period that Halifax felt begun too long ago to be a valid claim. But this wasn't the case, and Ms B and Mr W were only trying to reclaim the overpayments for four months beginning in August 2021. As such, I'm satisfied that Halifax's reason for rejecting the claim at the stage they did wasn't based on a valid understanding of that claim.

Ms W and Mr B feel that my position in this regard should necessarily mean that I should instruct Halifax to honour the direct debit indemnity claim and reimburse the four monthly overpayment amounts to their account. Ms W and Mr B have also asked why this service isn't holding Halifax to account for not honouring the direct debit guarantee as it should have, and awarding a higher amount to them because of this

However, as explained, this service isn't a regulatory body, and so it's not for me to hold Halifax to account here as Ms W and Mr B suggest. And, when considering the outcome here – which was the Halifax explained to Ms W and Mr B that they should seek to recover the overpayments from the utility company directly – while I acknowledge this would have been inconvenient for Ms W and Mr B, I also feel it would have resulted in the overall outcome that Ms W and Mr B were seeking to achieve – specifically, the reimbursement of the overpayments for the four months in question.

I also feel that the length of time that's elapsed since the payments in question means that it wouldn't be reasonable for me to instruct Halifax to reimburse the overpayments to Ms W and Mr B's account as they would like. I say this because it seems logical to me that Ms W and Mr B, having made the overpayments, would have been in a position of credit with the utility company and may have already taken steps with that company directly to resolve that position of credit – such that no reimbursement would now be justified. And I also feel that if Ms W and Mr B remain in an unresolved position of credit with the utility company that they would be best placed to resolve that position with the utility company directly at this stage.

But it's clear that Ms W and Mr B have been inconvenienced by what's happened here, both in regard to Halifax not logging their claim when first should have been the case, and in regard to Halifax's response to that claim when it was recognised by them, and I'm satisfied that they should fairly be compensated for this inconvenience.

Matters of compensation can be subjective, but the £150 recommended by our investigator which Halifax have accepted does feel fair to me, and I can confirm that it's commensurate with what I might have instructed Halifax to pay, had they not already agreed to do so.

In arriving at this position I've considered only the elements of this complaint that fall within the remit of what this service can consider – as explained above – and the impact that these may have had on Ms W and Mr B.

These include that Ms W and Mr B had to contact Halifax three times before their claim was logged and actioned by Halifax, as well as the inconvenience of Halifax incorrectly assessing their claim and asking them to resolve the matter with the utility company directly. And I've also considered the general framework by which this service considers trouble and upset compensation amounts – further details of which can be found on this service's website. And, taking all these points into consideration, I feel £150 is a fair compensation amount.

I realise this won't be the outcome Ms W and Mr B were wanting, but while I will be upholding this complaint in their favour, I'll only be doing so to formally instruct Halifax to pay £150 compensation to them. I hope that Ms W and Mr B will understand, given what I've explained, why I've made the final decision that I have.

### **Putting things right**

Halifax must make a payment of £150 to Ms W and Mr B.

### **My final decision**

My final decision is that I uphold this complaint against Bank of Scotland plc, trading as Halifax, on the basis explained above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B and Mr W to accept or reject my decision before 1 February 2023.

Paul Cooper  
**Ombudsman**