

The complaint

Mr J complains that Nationwide Building Society closed his account without notice and recorded a CIFAS marker against his name. CIFAS is one of the UK's fraud alert services.

What happened

Mr J opened an account with Nationwide on 17 October 2018. On 1 November, his account was credited with £5,060. Within a short space of time, the credit had been withdrawn. There were two ATM cash withdrawals and several point of sale transactions.

Nationwide received notice from a third party bank that the money had been taken fraudulently from its customer's account. Nationwide investigated and concluded that Mr J had knowingly received a fraudulent credit and benefitted from it. It closed Mr J's account and recorded a CIFAS marker against his name.

Mr J had difficulty trying to open an account elsewhere, so he complained to Nationwide. But it wouldn't remove the CIFAS marker.

Our investigator didn't recommend that the complaint should be upheld. She concluded that Nationwide had acted in line with its terms and conditions in closing the account. And she thought the CIFAS marker had been filed correctly because Mr J was most likely aware of the activity on his account.

Mr J didn't agree and asked for his complaint to be considered by an ombudsman.

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.

Where the evidence is incomplete, inconclusive, or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

The money credited to Mr J's account was a fraudulent transaction – the money had been fraudulently debited from a third party's account. And the credit was withdrawn in a series of transactions shortly after the credit was applied to the account in a pattern typical of that of a fraudster. But before placing the CIFAS marker against Mr J's name, Nationwide needed to have a reasonable belief that criminal charges could be brought against Mr J as a result of the activity. A suspicion or concern isn't enough. So I need to decide if there's enough evidence to show that Mr J knew more about this than he's told us.

There are some inconsistencies and confusion in what Mr J has told us and what he told Nationwide. I've considered what Mr J said carefully and have taken into account that he was young when this happened. But, after careful consideration, I think Mr J knew more about the transactions than he's told us. I say that for the following reasons:

The loss of his card

Mr J didn't report his card as lost. He says this is because he didn't realise it was missing. But he also told us he lost it and then found it again. So it's not clear what happened. He told us he kept the card in drawer in his bedroom, and he's not explained how he thinks it went missing from there. Taking into account all the circumstances, I think it's more likely that Mr J's card wasn't taken from the drawer without his knowledge.

Who carried out the transactions?

Mr J told us he knew nothing about the fraudulent credit and that he didn't make or authorise the ATM withdrawals and the point of sale transactions. I don't think he carried out the transactions himself. I say this because there were two payments to a pawnbroker and any such transactions require a contract with an individual of at least 18 years old. Mr J was younger than that.

But I do think he authorised someone else to use his card. He said that some people he knew made the transactions. So I think it's most likely that Mr J gave them his card and PIN.

Closure of the account

Following its investigation, Nationwide decided to close Mr J's bank account. I find it did this in line with its terms and conditions.

Recording a CIFAS marker

The pattern of transactions is typical of an account holder allowing their account to be used by a third party for them to launder money through it – a term more commonly known as a money mule. If there was some evidence that Mr J had been coerced or threatened into allowing a third party to use his account in this way, I would expect Nationwide to show some sympathy for him and, depending on the circumstances, it may not be appropriate to record a fraud marker. But Mr J maintains he knows nothing about the transactions and I've not seen anything to suggest he was forced into allowing someone to carry out these transactions – I would have expected him to tell his parents and to report it to the police if this was the case. Although he told Nationwide he reported it to the police, he wasn't able to provide a crime reference number.

Taking all of this together, this all points to Mr J knowing more about the transactions than he's told us. And I think Nationwide does have enough evidence to report this matter to the police.

In reaching this decision I have taken into account that Mr J was young when these transactions happened and that he was unlikely to realise the serious implications. I've considered that his immaturity and naivety will have had an impact on his actions. I've also considered the impact the CIFAS marker has had on him – and will continue to have on him – just as he is 'starting out' in life. But I'm afraid this doesn't change my overall conclusion. I've found that the CIFAS marker is factually correct, so I can't ask Nationwide to remove it.

My final decision

For the reasons I've explained, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 16 July 2020.

Elizabeth Dawes
Ombudsman