

The complaint

Mr W complains that HSBC UK Bank plc closed his account and recorded a CIFAS marker against his name. CIFAS is one of the UK's fraud alert services. He wants HSBC to allow him to keep his account, or to remove the marker so that he can bank elsewhere.

What happened

On 9 August 2017, Mr W's account received two credits totalling £1,062.95. Mr W said he was on holiday and had run out of money, so he asked his friend to send him some. But, when he returned home, he found his card was blocked. He later found out HSBC had closed his account and recorded a CIFAS marker against his name.

HSBC said Mr W was in receipt of two fraudulent credits from the proceeds of an online banking fraud. The bank tried to contact Mr W on several occasions to discuss what had happened, but Mr W didn't respond. It wouldn't agree to re-open his account or to remove the CIFAS marker.

Our investigator didn't recommend that the complaint should be upheld. He thought the CIFAS marker had been filed correctly because Mr W had been in receipt of fraudulent funds, some of which he'd spent, and he'd not provided a plausible explanation to demonstrate where the money had come from.

Mr W didn't agree. He said, in summary, that:

- He was on holiday and his friend paid for his flight home.
- The CIFAS marker is causing him a lot of problems.

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 W's account was a fraudulent transaction – the money had been debited from a third party's account without their authority or consent. And, before the account was blocked, the credit was partly withdrawn in a series of transactions in a pattern typical of that of a fraudster. But, before placing the CIFAS marker against Mr W's name, HSBC needed to have a reasonable belief that criminal charges could be brought against Mr W 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 W knew more about this than he's told us.

Mr W says he was abroad on holiday and ran out of money, so a friend agreed to credit his account. And that he used that money to buy a flight home. And I can see from his account statement that this is what happened. But this was in July 2017. £300 cash was credited to his account and there was an online transfer of £200. Shortly after the second credit, Mr W purchased a flight. But these transactions were completely separate from the fraudulent transactions which took place around three weeks later when Mr W was back in the UK.

Mr W says he knew nothing about the fraudulent credits, and doesn't recognise the account holder's name. It was relatively unusual for him to receive such a large amount into his account, so - if he wasn't expecting it and had no idea who it was from - I wouldn't have expected him to spend it before checking with the bank first. I can see that Mr W regularly used his card and he didn't report it lost or stolen. So it must have been him who made the cash withdrawal and point of sale transaction, or he must have authorised someone else to do so.

It also seems to me that, if Mr W knew nothing about the fraudulent credits, he would have responded to the bank when it contacted him to discuss them. On the one occasion when Mr W did speak to the bank, he would not answer the required security questions. HSBC also wrote to Mr W to tell him a new debit card was available for him to collect from his branch, but he never collected it. I find this surprising, bearing in mind Mr W has told us he didn't know why his card had been blocked.

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

I find HSBC acted in line with its terms and conditions when it closed Mr K's account. I have taken into account what Mr W says about the difficulties he is now having because of the CIFAS marker. But I've found that the CIFAS marker is factually correct, so I can't ask HSBC 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 W to accept or reject my decision before 16 July 2020.

Elizabeth Dawes
Ombudsman