

The complaint

Mr G complains that Capital One (Europe) plc has unfairly registered a marker at CIFAS, the national fraud database.

What happened

Mr G says that when he tried to open a new account with his bank in 2019 he found out that Capital One had registered the marker in 2016. His bank closed his existing account too. When he complained to Capital One he was only told that this related to 'payment irregularities' and its internal lending policy. But it hadn't explained what this related to.

Our investigator didn't recommend that the complaint be upheld. He said that he wasn't able to share the details of the CIFAS marker as this was sensitive information. He explained the role of CIFAS and the basis on which a marker could be added. He said he was satisfied that this marker had been added correctly.

Mr G said he had looked at his statements for 2016 and realised that the regular payments to his account that had been made by his partner in 2016 had been reversed. He considered that his partner had made a malicious report as they had a difficult break up. Given the time that has passed he said he isn't in a position to provide more information to support this. He stressed that he hasn't been involved in fraud and has run his accounts including at his other bank to a good standard. He has health issues and he can't manage without a bank account.

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 need to consider whether the report to CIFAS was made fairly. On this point, Capital One needs to have more than a suspicion or concern. It has to show it had reasonable grounds to believe that a fraud or financial crime had been committed or attempted and that the evidence would support this being reported to the authorities.

I've listened to a call Mr G had with Capital One when he raised his complaint. And I appreciate that he has had health issues which have affected his ability to deal with things. He was told that Capital One had written to him about the payment irregularities in 2016 but he said he can't remember this and thought that any entries on his account related to interest applied. And he didn't know there was a problem until his bank refused to open a new account for him and told him his existing account would be closed.

As our investigator has said we and Capital One are limited in what we can say where information relates to fraud. I can understand how frustrating that is for Mr G, but I can assure him that we do look at all the available information when we undertake our independent review of what happened. I've also considered what Mr G has now said about what he thinks happened as the regular payments made to his account were reversed. But he accepts he doesn't have any information to support that those payments were legitimate

although I know he is adamant that any accusation of fraud would have been a malicious one.

So, I'm afraid having considered this matter carefully I conclude that Capital One didn't make a mistake when it added the marker at CIFAS. I don't have a reasonable basis to require it to do anything more. I fully appreciate how disappointed Mr G will be by my decision given what he's explained he thinks are the consequences of the marker for him.

My final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 17 December 2020.

Michael Crewe
Ombudsman