

The complaint

Mr B complains that Nationwide Building Society has unfairly recorded a marker at CIFAS, the national fraud database.

What happened

Mr B says he discovered that in 2016 Nationwide had registered a CIFAS marker. He says that he wasn't involved in any fraudulent activity and he contacted Nationwide in March 2020 about this.

Nationwide said it wouldn't be removing the marker. And it referred to a final response letter it had sent Mr B in April 2016. It said he had reported a £2,000 withdrawal from his account then as fraudulent and told it that he didn't have his card and PIN and wanted a refund. But a payment into his account at that time of £3,500 had been reported as fraudulent by another financial business. And that was even though Mr B had initially said it was a payment from his partner that he was entitled to. Nationwide then told him it wouldn't be upholding his claim or changing its decision to close his account.

Our investigator didn't recommend that the complaint be upheld. He said that Mr B had now told him that he didn't recognise where these funds had come from. And that he thought it might be linked to a past case of impersonation fraud the year before. So, Mr B said he reported this to the authorities and provided Nationwide with the reference number to help with the investigation. Mr B said that at the time he was paid weekly and sometimes had a bonus. And that he'd checked with his employer and family to see if they'd paid the money in. But none of them had. His account had been closed and he later found out about the marker and said that Nationwide told him it would be removed.

Our investigator said that Nationwide had noted that the credit of £3,500 had been received on 14 April 2016. And it had documented that Mr B said it had come from his partner from the sale of goods online. The next day £2,000 was withdrawn in a branch. Although Mr B had later said to Nationwide that he didn't know where the funds came from it was reasonable to rely on what he'd initially said especially as it was unlikely he'd had been confused about such a large amount from his partner. Nationwide had carried out an investigation that confirmed the funds to be fraudulent. Mr B hadn't provided evidence to support that he didn't know the source of the funds or about the outcome of any police investigation. Our investigator considered Nationwide had grounds to support the marker being added at CIFAS.

Mr B didn't agree and wanted his complaint to be reviewed. He said he would take this up with the authorities and that his evidence hadn't been looked into.

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, Nationwide 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.

Nationwide's referred to the final response letter it issued in April 2016. And what it says in that letter is supported by its case notes from the time. I find it unlikely that it would have wrongly documented Mr B's initial explanation about the source of the funds. And so, I'm satisfied that when he first contacted Nationwide that was on the basis that he said he hadn't made the £2,000 withdrawal. Nationwide received a report that the credit had been fraudulently obtained and Mr B had by then said he didn't know where the funds were from. But the point is that he never had any entitlement to them.

I am now looking specifically at the CIFAS marker applied. The key issue is whether Mr B reasonably knew those funds weren't legitimate. He's told our investigator he saw them online and this is why he contacted Nationwide. I don't accept as most likely that he only later came to realise and so explain that this was money from someone he didn't know and wasn't rightly his. I appreciate the difficulty in him providing anything more about what happened in 2016. But he also hasn't provided the further information he said he could to our investigator. I'm satisfied on balance that Mr B would reasonably have known that these funds were never legitimately his. And I say this taking into account that it's documented that he'd been inconsistent in his explanation.

Nationwide says that it applied the CIFAS marker because Mr B received fraudulent funds and made a claim that he hadn't received a withdrawal of part of those funds. So, I've looked at whether Nationwide was fair to apply the marker, based on the evidence it had, and the investigation it carried out. CIFAS guidance says the business must have carried out checks of sufficient depth to meet the standard of proof set by CIFAS. This essentially means that Nationwide needs to have enough information to make a formal report to the police. And that any filing should be for cases where there are reasonable grounds to believe fraud or financial crime has been committed, rather than mere suspicion.

Having reviewed Mr B's account of events and the evidence Nationwide has provided, I'm satisfied that Nationwide had sufficient evidence for the CIFAS marker to be recorded. In coming to this view, I've taken into account the following reasons:

- Mr B received fraudulent funds into his account and initially said that these were his.
- He made a fraud claim relating to the withdrawal of funds that were never rightly his..
- Nationwide had grounds to believe that Mr B had been trying to benefit from fraudulently obtained funds based on the evidence it had

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 B to accept or reject my decision before 11 January 2021.

Michael Crewe
Ombudsman