

The complaint

Ms P complains that National Westminster Bank Plc closed her account and registered her details with CIFAS the UK's fraud alert service. This made it difficult to open another account. She wants the CIFAS marker removed.

What happened

Ms P had two accounts with NatWest a current account and a deposit account.

On 4 July 2019 a credit for £4,520 was received into Miss P's account. This was reported as fraudulent by the sending bank on 8 July 2019.

As a result, NatWest sent Ms P a notice of immediate account closure on 10 July 2019. They also recorded a CIFAS marker against Ms P on 9 July 2019.

Ms P has told us she visited her branch on 17 July 2019, because she couldn't access a benefit payment she was expecting. A statement was produced for her in branch and she reported some transactions as not recognised by her. She also said that the address NatWest had sent the statements and closure letter to was not one she recognised.

Miss P has told us that a number of fraudulent transactions were made on her account from 17 June 2019 to September 2019.

I won't list each disputed transaction here as both Ms P and the bank are aware of the transactions in dispute.

The account was closed on 3 September 2019. Ms P withdrew the balance on her account which was her benefits payment on 23 August 2019.

Ms P has told us that at the time of the disputed transactions she was living in care with five others. Ms P has said she doesn't recall losing her phone or her card around this time. She has said she has a record of her phone and debit card PIN written down but no written record of online banking details. Ms P said her laptop was in her room and although password protected, she recorded the password in the same notebook with her other PINs.

Ms P complained to NatWest on 18 February 2020.

NatWest said they were unable to uphold the complaint regarding the account closure, they were relying on the terms and conditions of the account. They also said that because the account was closed for suspected fraudulent activity, markers could be placed on the account. NatWest declined to reopen the account or to remove the marker.

Unhappy with their response Ms P complained to our service.

One of our investigators looked into the complaint. He said NatWest had acted fairly when they closed the account and recorded information with CIFAS. He thought it likely Ms P

carried out or consented to the fraudulent activity on her account. He thought Ms P must have known of the fraudulent activity a long time before she reported it because the device used to carry out genuine transactions was also used to log in to the account whilst the fraudulent transactions were carried out. He couldn't see how Ms P's online banking details had been compromised. And some of the disputed transactions had been carried out by online banking.

Ms P disagreed with the view she said:

- other people had access to her online banking.
- She never said that her card had ever been returned.
- The reason she took so long reporting the issues was because of personal problems she had regarding housing.
- Her phone was never stolen.

Ms P spoke to the investigator and suggested a number of ways in which the account details could have been compromised. She also said that as the situation had happened a long time ago, she couldn't remember exactly what had happened.

As there was no agreement the matter has come to me for 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.

Having done so I have come to the same conclusion as the Investigator for broadly the same reasons.

CIFAS marker

NatWest said it applied the CIFAS marker because the funds received into the account were fraudulent.

So, I've looked at whether NatWest was fair to apply the marker, based on the evidence it had and the investigation it carried out and what the rules say about applying such markers.

CIFAS guidance says the business must have carried out checks of sufficient depth to meet the burden of proof set by CIFAS, which at that time was that NatWest needed to have enough information to make a formal complaint to the police or other relevant law enforcement agencies. And that any filing should be for confirmed cases of fraud, rather than mere suspicion. In addition, CIFAS guidance set out businesses are expected to retain the evidence they rely upon when applying a CIFAS marker for at least six years.

There has been some discrepancy in the details Ms P has given to us regarding whether her card was taken and replaced or taken and never replaced. Also whether her on line banking security details could have been compromised or not. She has said that all this happened a long time ago and therefore it's not possible for her to recall all these specific details.

We first spoke to Ms P a year after the disputed transactions so I can accept that her recollection was hazy. She told us she didn't think she'd lost her card. During the conversation Ms P said there was no written record of her PIN, she then remembered her PIN for her card and her phone were both written down in a notebook which was kept in a

box under or inside a bed. She confirmed her online banking details were not recorded in the notebook but her password for her laptop was also written in that notebook.

Ms P has said that due to her disability she is not able to travel in the day time, so she confirmed she hadn't been to south or east London where some of the transactions took place.

Ms P has said because she has been in care many people had access to her room and her possessions. She told us someone who had been in her room must have got access to her details.

Having reviewed Ms P's account of events and the evidence NatWest have provided, I'm satisfied NatWest had sufficient evidence for the CIFAS marker to be recorded on her file. In coming to this view I've taken into account the following reasons:

- I'm satisfied from the evidence I've seen from NatWest that fraudulent funds were received into Ms P's account. I have seen that Ms P carried out a genuine transfer on 20 June 2019 into her other current account with bank M. I find it implausible that she didn't see the disputed transactions that had been carried out on her account on the 17 June 2019. That same trusted device was then used to log in on 2 July 2019. So, I think Ms P would have been able to see the disputed transactions on 29 June 2019. When Ms P logged in with the same genuine device on 4 July 2019, she would have become aware of the credit for £4,520. So, I think the technical evidence I've seen suggests that Ms P logged in at least three times with a trusted device so must have known of the fraudulent activity taking place on her account and didn't report it until much later.
- The online log in history shows that one person only wouldn't have been able to carry out all the disputed activity. More than one person had access to Ms P's details as there are log ins from IP addresses in south London and Cambridge within a minute of each other. I accept that Ms P has said that because of her disability she wouldn't be able to travel to all these locations, but she could have authorised others to use the account.
- Some of the disputed transactions were carried out by on line log in. Ms P has said that these log in details weren't recorded anywhere so the only plausible explanation is she must have carried out the transactions herself or provided her on line log in details to someone else.
- The evidence suggests there has been no PIN or password changes. The cards haven't been reported as lost or stolen. There are no failed PIN attempts. No one but Ms P had access to all the information needed to carry out the transactions and therefore it seems likely that Ms P provided that information to third parties who carried out the transactions. I accept that Ms P has said that many people had access to her room and her things, but its implausible that a fraudster could have got hold of her bank card, PIN, online bank details and phone and lap top in order to carry out the transactions without her knowledge.

Ms P has said that someone changed the address on her bank without her knowledge and that's the reason she wasn't getting her statements or the closure letter. I can see what Miss P is saying about her address being changed but I can't see how this explains how a fraudster would have got access to her PIN, account details and phone and lap top to carry out the disputed transactions.

I accept that Ms P's living arrangements were difficult at this time, but, based on the evidence, I think it's more likely than not that Ms P was aware that fraudulent funds were coming into her account. Looking at the technical evidence the most plausible explanation is that Ms P made the transactions herself or authorised someone to do them as I don't think it's plausible for a fraudster to have obtained Ms P's bank card, PIN, mobile phone and online banking information without her knowledge and consent.

Account closure

As the investigator explained it's generally for banks to decide whether or not they want to provide, or to continue to provide, banking facilities to any particular customer. Unless there's a good reason to do so, this service won't usually say that a bank must keep a customer or require it to compensate a customer who has had their account closed.

NatWest has relied on the terms of the account to close it. NatWest can close an account with immediate effect in certain circumstances. I have reviewed the terms of the account and the evidence and I am satisfied that NatWest closed the accounts in line with the account terms. And acted fairly in doing so.

I can see that NatWest wrote to Ms P on 10 July 2019 and let her know it was closing her account with immediate effect. Ms P has said that she didn't receive the letter as the address NatWest held for her was not one she recognised. I've considered if this has disadvantaged Ms P but since the closure was immediate, I don't think finding out when she did placed her at a disadvantage.

In summary, based on the evidence I've seen, I can't say NatWest has acted unreasonably and treated Ms P unfairly when it closed her accounts and registered her details with CIFAS. So, I am not going to ask them to remove the CIFAS marker.

My final decision

For the reasons mentioned above I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P to accept or reject my decision before 25 December 2020.

Esperanza Fuentes
Ombudsman