

The complaint

Mr F complains that N26 Bank GmbH has unfairly registered a marker at CIFAS, the national fraud database.

What happened

Mr F contacted N26 Bank after his account at a different financial business was closed. He found that N26 Bank had registered the CIFAS marker. Mr F told it that he didn't have an account with it and that he wasn't involved in fraud.

N26 Bank said it wouldn't be removing the marker. It had a copy of his genuine identification provided at the time of opening the account in January 2019. It set out the numerous reports of fraud about payments that had been credited into the account. And it said it wrote to Mr F in February 2019 at the email account he is still using saying that his account would be closed due to the way it had been operated and didn't then receive any response.

Our investigator didn't recommend that the complaint be upheld. Mr F had changed his version of events. He now said he did open the account. He said that he had been told that the transactions would be business ones and that he would get half of any money that was made. He later said to this service that he'd been manipulated into opening the account by others. He gave the card and online log in details to an individual but says he didn't give his PIN and that it could be obtained online. So, he didn't make the withdrawals. Mr F said that he couldn't log on to online banking and although he knew something was wrong didn't have a number to contact N26 Bank. He provided screenshots of messages with the person from the group that he knew.

Our investigator noted that these screenshots weren't dated. But they showed that from the start Mr F had concerns about whether his account would be used in a legitimate way. Mr F couldn't say what he had done to satisfy himself that these were genuine payments. He had no other evidence to show he wasn't involved and didn't receive benefit from this money. N26 Bank had grounds to apply a CIFAS marker.

Mr F didn't agree and wanted an ombudsman to review the complaint.

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, N26 Bank 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.

Our investigator has set out above that Mr F hasn't given a consistent explanation of what happened. He originally tried to deny that he opened the account. He now says that he did open it with an expectation of financial reward. The messages he's sent also show that from

the outset he had concerns that the payments weren't legal. And in his complaint form to this service he says

"I would like to apologise for being so stupid and putting my Financial freedom at risk for fast money and I hope I can be forgiven or I could potentially pay back a fee".

I'm afraid I think it most likely Mr F had reason to believe that this money wasn't legitimate from the outset. He says he didn't operate the account but he's no evidence to support this. And on his version of events he knowingly allowed individuals to continue to use his account. From what he says he'd provided them with sufficient security information so that it could be accessed. Under the terms and conditions of the account he should have kept all this confidential. He also didn't do anything about this at the time and I find was a witting participant in what happened. And when he did report this he wasn't open about what happened and tried to conceal he had opened the account.

Having reviewed Mr F's account of events and the evidence N26 Bank has provided, I'm satisfied that N26 Bank had sufficient evidence for the CIFAS marker to be recorded. In coming to this view, I've taken into account the following reasons:

- Mr F opened the account and received fraudulent funds and didn't report this to N26 Bank at the time.
- He was in control of who had the benefit of this money.
- N26 Bank had grounds to believe that Mr F had facilitated the dispersal of fraudulently obtained funds based on the evidence it had.

I appreciate Mr F regrets what he did now, and I know he is going to be disappointed when I say that I don't have a reasonable basis to require N26 Bank to take any further action.

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 F to accept or reject my decision before 11 February 2021.

Michael Crewe
Ombudsman