

The complaint

Mr O complains that Nationwide Building Society unfairly registered a marker at CIFAS, the national fraud database.

What happened

Mr O had accounts with Nationwide. In January 2020 Nationwide told him that it was closing his accounts. Mr O complained that it had also registered a fraud marker. He says this is causing him difficulties as he can't open an account elsewhere.

Nationwide said that it wouldn't be removing the fraud marker. Funds paid into Mr O's account in December 2019 had been reported as fraudulently obtained. All the money had been withdrawn. It said it had an obligation to report this by loading the marker.

Our investigator didn't recommend that the complaint be upheld. Mr O said that he had allowed a friend to use his account to receive the payment. And that he provided that friend with his card and PIN and access to online banking. Mr O said he had no idea that this account was being used in this way. But she said that Mr O was responsible for the activity on his account and that included what a third party had done here. She knew that Mr O regretted what happened but didn't think Nationwide had made a mistake.

Mr O didn't agree. He said that the person involved was his cousin who had just come to this country. He didn't give him his card and PIN and had made a mistake by not explaining this before as he didn't want to incriminate him. Mr O said he had full control over his account but had provided the sort code and account number. Mr O took out the money because he was told to and had no idea this was fraudulent. He also said that if he had seen the payment he would have called Nationwide as he had no idea where it came from. He was now suffering from mental health problems and his family wasn't speaking to him.

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.

Mr O has provided nothing beyond his testimony to support what he says happened. And he's also not been consistent in what he says. He seems to think that him not giving a third party his card and PIN makes him less responsible. But if anything, he now accepts that he made all the payments using these funds and so must reasonably have known about the large credit to his account. I'm afraid as he has given different explanations it is difficult to rely on what he says.

I've also listened to recordings of a number of calls he had with Nationwide in January 2020 - first when his account had been restricted and then when it had then written to him to say it had been closed. He said nothing then to refute that there had been fraud on his account. And he had by then been trying to open an account elsewhere and knew that the record of fraud might cause him difficulties. To me that indicates it's most likely he was aware of what had been happening on this account. And as I say there is no supporting evidence of any third party being involved. I don't have a reasonable basis other than to find Mr O responsible for what happened on his account.

Nationwide says that it applied the CIFAS marker because Mr O received fraudulent funds into his account. 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 O'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 O received fraudulent funds into his account and didn't report this to Nationwide at the time.
- He authorised the withdrawal of the funds and so was in control of who had the benefit of this money.
- Nationwide had grounds to believe that Mr O had used fraudulently obtained funds based on the evidence it had.

I understand the difficulties Mr O describes without a bank account but I'm afraid that I don't have a basis to require Nationwide to do anything further.

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 O to accept or reject my decision before 5 February 2021.

Michael Crewe
Ombudsman