

The complaint

Mr O and Ms G are unhappy Bank of Scotland (trading as Halifax) blocked and closed their accounts and registered a CIFAS against Mr O, meaning he hasn't been able to open an account elsewhere.

Because the accounts are held jointly, I have referred to both Mr O and Ms G. However, Mr O is driving this complaint and has explained that although Ms G is named on the accounts, she didn't use them. Given this, I may refer to just Mr O at times.

What happened

In March 2019 Mr O and Ms G received two credits into their accounts. In April 2019 Halifax received a report from the sending banks that these credits were fraudulent.

Halifax blocked the account on 23 April 2019 and contacted Mr O to discuss the credits. Mr O told Halifax the credits were in relation to his business and the money was from a client for the sale of cars. He said he could provide invoices to show this. Mr O attended branch the following day with a copy of the wire transfer sheets. However, Halifax said this wasn't sufficient to show he was entitled to the funds.

Halifax issued a notice to close Mr O and Ms G's accounts on 24 April 2019, explaining all their accounts would be closed in 65 days' time.

Mr O has explained how Halifax's actions led to him not being able to continue operating his business and he's been unable to open an account elsewhere. He explained the matter has had grave consequences on him both medically and financially. Mr O would like Halifax to reopen the accounts, remove the CIFAS recorded against him and pay compensation for the impact the matter has had on him.

Mr O complained to Halifax and it issued its final response letter in June 2019. In this letter it explained the accounts had been closed due to the fraudulent credits into the accounts and that the wire transfer sheets provided in branch weren't sufficient to show he was entitled to the money. It also informed Mr O that it had recorded a CIFAS marker against his name.

Mr O remained unhappy with Halifax's response so referred his complaint to this service. Our investigator didn't uphold the complaint. She requested further evidence from Mr O and Ms G to support their claim that they were entitled to the credits that came into the account. Mr O provided contracts for the sale of cars. However, the investigator didn't deem these to be sufficient as the amounts and dates differed to the transfers into the account. She concluded that Halifax was acting within its legal and regulatory obligations when blocking, reviewing and closing the accounts. And due to Mr O being unable to provide any compelling evidence that he was entitled to the funds that credited the account, the CIFAS loading was correct and should remain.

Mr O didn't agree with the outcome and so the complaint has been referred to me to decide.

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.

Account review and closure

Halifax has a wide range of legal and regulatory obligations it must meet when providing account services to its customers. These are ongoing so don't just apply at account opening stage. To comply with these obligations, it may need to review accounts and the activity taking place on them. Sometimes these reviews will lead to the accounts being blocked and closed. If Halifax didn't do this, it could risk serious sanction.

With this in mind, I'm satisfied Halifax was within its rights to block Mr O and Ms G's accounts and carry out a review following the report that the credits to their accounts were fraudulent. Mr O didn't provide Halifax with sufficient evidence to show he was entitled to the credits – he was only able to produce a wire transfer sheet at the time which wasn't enough to satisfy Halifax. And I'm in agreement with this – this evidence only shows where the money had come from, not that Mr O or Ms G were entitled to it.

Halifax therefore decided to close the account and I'm satisfied it was entitled to do so. It gave 65 days' notice of this, but I note that the accounts were blocked during this time so Mr O and Ms G couldn't use them, other than to withdraw benefits and wages in branch. So, it was effectively an immediate closure. Halifax was entitled to do this in line with its legal and regulatory obligations and having reviewed the terms and conditions, it was in line with these too.

So, whilst I appreciate Mr O's frustration with the closure and the inconvenience caused by the lack of access to the accounts, I'm satisfied no error was made by Halifax. It has the discretion to offer accounts to who it wishes, just as Mr O can choose who to bank with.

CIFAS marker

The CIFAS marker that Halifax has filed is relating to the fact it says Mr O used the account to receive fraudulent funds. In order to file such a marker, it is not required to prove beyond reasonable doubt that Mr O is guilty of a fraud or financial crime, but it must show there are grounds for more than mere suspicion or concern. CIFAS says:

- *“There must be reasonable grounds to believe that an identified fraud or financial crime has been committed or attempted; [and]*
- *The evidence must be clear, relevant and rigorous such that the member could confidently report the conduct of the subject to the police.”*

What this means in practice is that a bank must first be able to show that fraudulent funds have entered the consumer's account, whether they are retained or pass through the account. Secondly, the bank will need to have strong evidence to show that the consumer was deliberately dishonest in receiving the fraudulent payment and knew it was, or might be, an illegitimate payment.

To meet the standard of proof required to register a CIFAS marker, the bank must carry out checks of sufficient depth and retain records of these checks. This should include giving the account holder the opportunity to explain the activity on their account in order to understand their level of knowledge and intention.

The relevant finding for me to make is whether I think there is sufficient evidence to meet this standard of proof, to determine whether Halifax was entitled to escalate its concerns and record the marker.

As mentioned, Halifax received a report from the sending banks that two credits into Mr O and Ms G's accounts were fraudulent. It conducted a review and asked Mr O to provide proof of entitlement to the funds. Mr O was only able to provide a wire transfer form. It explained to him he would need to provide something more substantial than this to show he had a business relationship with the sender of the funds and what the purpose of the credits were. I can't see that Mr O provided anything further at the time.

Mr O provided this service with some additional documentation, namely what appear to be contracts for three car sales. However, the amounts mentioned in these contracts don't match up with the amounts Mr O received into the accounts. Nor do they show the name of the person on the wire transfer form. In addition, the date on the contracts is after the date the payments were received into the accounts. Mr O hasn't provided any explanation around these discrepancies despite us pointing them out.

Given this, I'm not persuaded Mr O has done enough to show he was entitled to the credits in the account. This, coupled with the fact these credits were reported as fraudulent, means I'm satisfied the CIFAS marker has been recorded fairly and correctly by Halifax. I therefore won't be asking Halifax to remove it.

My final decision

My final decision is that I don't uphold Mr O and Ms G's complaint against Bank of Scotland (trading as Halifax).

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms G and Mr O to accept or reject my decision before 29 July 2021.

Sarah Brimacombe
Ombudsman