

The complaint

Mr D complains that Bank of Scotland plc trading as Halifax closed his account and registered a marker at CIFAS, the national fraud database.

What happened

Mr D says that he was the victim here and that the marker is affecting his ability to open an account elsewhere.

Halifax says it received a report that money paid into Mr D's account was fraudulently obtained. This had then been transferred on using mobile banking and there was also a purchase authorised at a merchant. It said that Mr D had initially denied any involvement. But when it told Mr D it wouldn't remove the marker he then said he had been contacted on social media and that he'd been told he would make some money from this. It didn't think he had been an unwitting participant.

Our investigator didn't recommend that the complaint be upheld. There were four credits paid into the account on 16 August 2020 and almost all the money was withdrawn or spent that day. He said that it was clear Mr D had told Halifax different things. And that when he discussed what happened with our investigator he had told him he had been threatened from the start – not that he had been offered money and may later have been pressured. Mr D had told him that the only information he had provided to the person who contacted him on social media was his online banking information. But Halifax had shown that the transfers had been made using Mr D's device. That meant he'd either given that to the fraudster or made them himself. And also, a payment of £469 to a retailer had been made with Mr D's card details and card verification number. At no point had he said he had provided this. The final transfer from the account to an existing payee of £11 on 27 August 2020 was of interest because he couldn't see why a fraudster would have given that person any money.

Our investigator said he didn't think that Mr D had been truthful with this service or Halifax and that was because he had been involved in the activity. So, he considered Halifax had grounds to add the marker.

Mr D didn't agree. He said that he never gave the person his card. He explained that the transfer of £11 was when he was asked by Halifax where he wanted the remaining money in this account to go. He didn't think his age of 17 and vulnerability at the time had been taken into account and said that he was scared and thought that the third party, who knew his address, would visit him at home. He made a mistake and the implications for him are significant.

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, Halifax 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.

I won't be able to say *exactly* what happened but I'm thinking about what is *most likely*. It is clear that Mr D's account was used for the receipt and then dispersal of fraudulent funds. The issue I need to decide on is whether he was a witting participant in this.

Mr D initially reported this as fraud and his account was blocked from the evening of 16 August 2020. It was only when Halifax noted how the payments were made using his device and card and said it wouldn't be removing the marker that he changed this version of events. As our investigator set out he first said that he had been contacted on social media and told he could make some money. He went on to say he had been pressurised and then threatened when he learnt that Halifax was still not changing its position on the complaint. He has told this service that he was threatened from the outset.

I note he does have confirmation of reporting this to police in a letter dated 24 December 2020. There is no further information about the outcome of that.

If what Mr D says is now right it still doesn't explain how the payments were made using his device. As our investigator says either he used it himself or he gave it to the person making them which meant he had direct contact with that person. And again, he is adamant he didn't make the payment of £469 to the merchant and also that he hadn't given his card details to a fraudster. That doesn't stack up and means that his version of events isn't a credible one. I take into account that he could have been scared but I think he's now had the full opportunity to give a plausible and complete explanation of what happened, and he hasn't done so. I put little weight on the payment of £11 on 27 August 2020. As his account was by then blocked I think that what he says could be an explanation for that.

But I don't think that Mr D was a victim. He hasn't persuaded me that he wasn't a participant in this fraud, that he didn't expect to gain from it (as he at one point indicated he could) or that he has now given a full and plausible explanation of what really happened. So, I think Halifax had grounds to add the marker and close his account.

Halifax says that it applied the CIFAS marker because Mr D received fraudulent funds into his account. So, I've looked at whether Halifax 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 Halifax 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 D's account of events and the evidence Halifax has provided, I'm satisfied that Halifax had sufficient evidence for the CIFAS marker to be recorded. In coming to this view, I've taken into account the following reasons:

- Mr D received fraudulent funds into his account and didn't report this to Halifax at the time.

- He authorised the withdrawal of the funds and so was in control of who had the benefit of this money.
- Halifax had grounds to believe that Mr D had used fraudulently obtained funds based on the evidence it had.

I understand the implications of a CIFAS marker, and that Mr D says he is having difficulty opening another account. But I don't have a reasonable basis to require Halifax 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 D to accept or reject my decision before 9 July 2021.

Michael Crewe
Ombudsman