

The complaint

Mr N complains that National Westminster Bank Plc has registered a marker about him at CIFAS, the national fraud database.

What happened

Mr N says he has found out that when NatWest closed his account in April 2016 it had registered the marker. He says he hasn't been involved in any fraud. And that this is preventing him getting other financial products.

NatWest said it hadn't made a mistake in adding the marker. Mr N had received fraudulent funds into his account.

Our investigator didn't recommend that the complaint be upheld. She noted that Mr N had given different explanations of what had happened. NatWest had noted that when it spoke to him in 2016 he had said that the money was from family and that he had withdrawn it. When he referred his complaint to this service he had told a different investigator that he had been scammed. And that he had been persuaded to let his account be used and he expected to get some 'quick' money. He didn't know it was fraud and he was only 15 at the time. But he'd told her when she was investigating this in November 2021 that his card had been stolen and his PIN must have been guessed and his account used. He knew nothing about this. She didn't think he had given a plausible account of what happened, and she was satisfied NatWest had grounds to add the CIFAS marker.

Mr N didn't agree. He said that he wanted an ombudsman to review this. He meant to say his card was stolen and the person he'd spoken to probably thought he'd handed it over for a 'money flip'. He had no idea that this was fraud and the most recent information he'd given to this service was correct. What he'd said before was a mistake. He was scammed and the investigator's colleague who said that he'd given information over was misinformed. He was trying to explain how people do this. Mr N said he was innocent, and he wanted his case to be heard.

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, NatWest 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've read the case notes provided by NatWest and listened in full to recordings of calls Mr N had with this service. I know what he says now but I'm afraid I agree that the information he has provided has been inconsistent. It has ranged from him saying he did recognise the substantial credits from relatives which I can see totalled well over £5,000 and related cash withdrawals to him saying he didn't at all. He clearly said to this service in February 2021

that he allowed his account to be used even though he didn't know the reason and that he expected to make money. But more recently that his card was stolen. He also had a conversation with our investigator about whether she would tell NatWest if he said he did make these payments. And she rightly told him to give an honest account and that she wouldn't be dealing in hypothetical situations only the facts of this case.

In my view Mr N has proved to be unreliable in his account of what happened. He hasn't given a consistent account or a reasonable explanation of why he has given different accounts. I think NatWest gave him an opportunity to give an explanation at the time. And he's been given a full chance to explain things now. He seemed to know about how a 'money flip' based on bank transfers could work. And in my view whether he had lost his card or not was a fundamental point.

I've noted that his bank account was relatively new having been opened in January 2016, that there were fraudulent credits paid in and that these were quickly withdrawn. I'm not persuaded that Mr N didn't reasonably know what was happening. I consider he is fairly responsible for this having taken into account his age at the time and his explanations.

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

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

I understand what Mr N says about the impact of the marker on him, but I don't have a reasonable basis to require NatWest to do anything more.

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 N to accept or reject my decision before 17 January 2022.

Michael Crewe
Ombudsman