

The complaint

Mr N complains that National Westminster Bank Plc closed his account and registered a marker at CIFAS, the national fraud database.

What happened

NatWest said it had received a report that funds paid into Mr N's account were fraudulently obtained. And so, it had decided to close his account and add the marker.

Our investigator didn't recommend that the complaint be upheld. He said that NatWest had received a report from another financial business that three payments – totalling £2,021 – had been sent to Mr N's account as part of a scam on 9 August 2020. The money had been transferred out from Mr N's account by bank transfer using the mobile app. There was no other device than Mr N's registered to use mobile banking.

Mr N had told him that he had been the victim of fraud before. And that he only recognised the multiple payments made by himself to his account at a different financial business at that time. He said that he didn't recognise the transactions with a 'crypto currency' trading organisation or these other credits. His phone had a passcode and he had set a different passcode for mobile banking. Mr N said that no one else had access to his phone. And although at one time he had the security information written down on a piece of paper in his coat pocket he had lost this a month or so earlier. Mr N said he didn't see any of the other transactions on his account that day or notice the balance.

Our investigator didn't see how anyone else could have accessed Mr N's account using his phone. And as he'd made multiple genuine payments then Mr N would reasonably have seen the balance. And would have noticed the additional money but he didn't question this. NatWest acted in line with the terms and conditions in closing the account. And it had a basis to register the CIFAS marker.

Mr N didn't agree and wanted his complaint to be reviewed. He said that he had no idea where the funds came from and who the payee was. NatWest hadn't given him a chance to explain what had happened. And he maintained that he hadn't withdrawn or spent the money. He was clear that no one had access to his phone, and he had no involvement with the fraudulent transactions.

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 note that before these payments were credited there was an opening balance of zero on Mr N's account. The credits that day were the ones from the scam set out above and it seems credits from a crypto currency organisation of about £500. Mr N accepts that he transferred money to his own account at a different financial business. And from his bank statement that seemed to come to several hundred pounds in total. He says he doesn't recognise any of the other transfers which by close of business on 10 August 2020 had brought the account balance close to zero.

Mr N said in a call with our investigator that he thought that all he was doing was making transfers from the salary he had received towards the end of July. He didn't recognise the other transactions and has shown that there were multiple accounts set up at a crypto currency organisation in his name. His position is that this was without his knowledge. He also says that his August salary was subsequently diverted and lost when someone hacked into his phone and changed details at his workplace. He hasn't provided evidence that his phone had been hacked for these payments. But he says he is the victim here.

I've considered his explanation. But I agree with our investigator's assessment that based on the evidence the only phone that could be used to make these transfers was the genuine one for Mr N. There is no explanation of how that could have been compromised. And I don't consider it's credible to think that someone who by chance had obtained details of his passcodes on a slip of paper would have waited a month to use them. And also, would have been able to have access to his phone during the time Mr N was making genuine transfers. NatWest has provided screenshots showing that the balance would have been visible when Mr N logged on, so I also don't think it's reasonable to think that he didn't see the fraudulent payments in the balance.

Mr N hasn't indicated that he'd have had any better information to support his position even if NatWest had asked him about things at the time. And I've considered everything he's now said and provided in reviewing the CIFAS marker. I'm not persuaded that the *most likely* explanation is that he didn't know that there was fraudulent money received into his account. And also, I don't find it most likely that he didn't consent to all the transfers from his account.

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 at the time.
- He authorised the movement 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.

As a result, I consider NatWest had a basis to close his account and restrict his access straightaway. I know that there is a lot at stake for Mr N. He has explained his financial difficulties and the impact of the marker on him and in particular the personal distress he's been caused. I understand that but I'm afraid given my findings I don't have a reasonable basis to require NatWest 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 N to accept or reject my decision before 4 January 2022.

Michael Crewe
Ombudsman