

## **The complaint**

Mr A complains N26 Bank GmbH unfairly recorded a CIFAs marker against him. He wants the marker removed.

## **What happened**

Mr A held an account with N26. N26 received multiple fraud reports from third parties about payments that were paid into the account in early 2020. They decided to record a CIFAs marker against Mr A and they closed his account. Mr A doesn't think the CIFAs marker is fair and he brought his complaint to our service.

Our investigator decided not to uphold Mr A's complaint. They found:

- N26 met the evidential threshold CIFAs requires of its members to record the marker. There was enough information for them to reasonably suspect that a fraud or financial crime had been committed and the extent of that information would have been enough for them to have confidently reported Mr A to the police.
- Mr A said payments were paid to his account from someone who is a money exchanger. But the reasons Mr A provided surrounding those payments weren't plausible when compared to the activity on the account and the other information available. Mr A hadn't provided supporting evidence to lend weight to his version of events.

Mr A asked for a final decision from an ombudsman, so his complaint has been passed 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.

I have decided not to uphold Mr A's complaint. I'll explain why.

N26 do not have to prove beyond reasonable doubt that Mr A committed fraud or another financial crime. They need to be able to show they met the requirements of CIFAs – a fraud prevention agency - to record a marker against Mr A.

CIFAs is clear about what it requires of its members. N26 needed to be able to demonstrate they had reasonable grounds to suspect a fraud or financial crime had been committed or attempted. And they needed to show the information they hold is clear, relevant, and rigorous enough to have confidently reported Mr A to the police. They do not need to have reported him.

Mr A may think it's unfair that N26 can record a marker when he hasn't been found guilty of a crime. But CIFAs and CIFAs markers are an established part of the financial services industry.

Mr A has been somewhat inconsistent in some of the things he has told our service. The following is notable:

- He originally said to one of our investigators in late 2020 that he stopped using the account in late January 2020, and there might have been fraudulent payments on his

account afterwards which he knew nothing about. I find it doubtful he would have forgotten when he stopped using the account in late 2020. He later revealed to the investigator who gave their answer on his complaint that he did transact on the account into February and March 2020.

- He originally said he only used the account for personal use. But he later revealed he also used the account for the receipt of income from a part time job, and he admitted to receiving payments from the money exchanger to conclude money exchanges on their behalf.

Mr A says his was helping the money exchanger as a favour. He says he had used their services as a customer in the past, so he trusted them. He said once the payments were made, he withdrew funds in cash to give to persons the money exchanger identified. He said he sometimes made payments to another of his accounts, after which he also withdrew cash to pass to persons the money exchanger identified. He says he did this because of his banks' cash machine withdrawal limits.

It's unusual for the money exchanger to have needed Mr A to complete money exchanges. And it's also unusual Mr A did not question why the money exchanger couldn't conclude the exchanges themselves. Mr A had a responsibility to take steps to protect his account. He could not obviate his responsibility as N26's customer simply because he wanted to help the money exchanger. I also do not find a money exchanger asking for help is at all equivalent to a close family member asking for help. And even then, I would expect a customer to ensure they understand why they are being asked to pass funds on to third parties.

The payments to Mr A's account from the money exchanger were referenced as 'labour'. And a payment he made shortly after receiving a large payment was referenced as 'rent'. The usual reason why references like this are used is to indicate the purpose of payments. Mr A said he doesn't pay attention to what references he uses, but I must also consider that references can sometimes be used to make suspect activity appear genuine.

Mr A has no paperwork or written communication to evidence his version of events. He was allegedly receiving funds to give to specific persons, so he must at one point have held a record of his communication with the money exchanger about the payments. He would have needed to know when payments were being made to him, who he needed to give money to, and where and when this would happen. He may no longer have those records, but neither has he provided anything from the money exchanger to support his version of events – information which should be readily available considering the money exchanger acts as a business and should keep records.

Considering all the information I have seen, including the fraud reports N26 received, I find N26 demonstrated they met the standard CIFAs requires of its members to record a marker against Mr A. So, I will not be directing them to remove the marker.

## **My final decision**

I have decided to not uphold Mr A's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 11 March 2022.

Liam King

**Ombudsman**