

Complaint

Mr S is unhappy that National Westminster Bank Plc (“NatWest”) closed his account and loaded a Cifas marker against his name.

Background

In 2020, Mr S received a payment for £4,000 into his account. He withdrew this money over the counter in his local branch. The bank that sent this payment subsequently contacted NatWest to say that its customer had fallen victim to a scam and that the £4,000 were fraudulent funds. NatWest closed Mr S’s account and loaded a Cifas marker against his name.

Mr S was unhappy with its decision to do so and so he referred a complaint to this service. It was allocated to an Investigator. Mr S gave the Investigator an explanation as to how he’d received the £4,000 payment. He said he’d been planning on buying a car and looked up potential vehicles online. He bumped into an individual while socialising – this individual was someone Mr S knew from his local area, but not someone he knew well. That person agreed to lend Mr S £2,000 to help him purchase a car. He had never loaned money to Mr S before and didn’t specify when he wanted to be repaid. This individual told him that the money would be transferred from his mother’s account, rather than his own.

Mr S said that he withdrew the money in cash straightaway because he wanted to be able to buy a car. He thought being a cash buyer would allow him to get a better deal. However, he said he discussed the situation with his parents who thought the arrangement wasn’t a good idea and encouraged him to pay the money back to the person who’d lent it to him. He says he then returned the money in cash.

The Investigator didn’t uphold the complaint. He noted that NatWest had compelling evidence from the sending bank that the funds were fraudulent and that, while this didn’t mean that Mr S was complicit, he didn’t find his explanation credible. He was satisfied that NatWest had acted reasonably in relying on the evidence it had received from the sending bank and that this was sufficient to justify loading a Cifas marker against Mr S’s name.

Mr S disagreed with the Investigator’s opinion and so the complaint has been passed to me to consider and come to a final decision.

Findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

Having done so, I don’t uphold this complaint and I’ll explain why. To file a Cifas marker, NatWest isn’t required to prove beyond reasonable doubt that Mr S is guilty of a fraud or financial crime, but it must show that there are grounds for more than mere suspicion or concern. The relevant guidance in the National Fraud Database Handbook says that *“there must be reasonable grounds to believe that an identified fraud or financial crime has been committed or attempted”* and that *“the evidence must be clear, relevant and rigorous such*

that the member could confidently report the conduct of the subject to the police.”

There doesn't appear to be any dispute that Mr S received fraudulent funds. NatWest promptly received a notification from the sending bank that the £4,000 were the proceeds of a scam. It was, therefore, reasonable for NatWest to have had concerns about this payment. Mr S has essentially argued that, if he received fraudulent funds, he did so unknowingly and so it's not fair and reasonable for NatWest to load a Cifas marker against his name.

I've considered the evidence carefully and I don't think it supports the argument that Mr S wasn't involved. He has given an account of how he came to be in receipt of these funds which I've set out in the background section of this decision. I agree with the Investigator that this explanation isn't credible.

I find it difficult to understand why someone who Mr S concedes he didn't know well would agree to lend him £2,000 after a fortuitous encounter in his local area. It's even more surprising to discover that this individual wasn't concerned about how or when Mr S would repay him. Mr S has been open with the Investigator about the adverse impact the coronavirus pandemic had on his personal finances. That makes it even more improbable that this individual would be willing to lend him money on such generous terms.

I'm surprised Mr S didn't have any concern about the fact that he was told the payment would come from this individual's mother, rather than directly from him or the fact that he was told that he could borrow £2,000 but that when £4,000 was paid into his account, he withdrew the whole amount anyway.

I'm also unpersuaded that Mr S withdrew the funds in cash because he thought that would enable him to get the best deal on a second-hand car. From the version of events he's given us, he hadn't yet identified the car he wanted to buy at that point but was browsing relevant websites. Even if he wanted to buy a car with cash, this doesn't explain the urgency with which the money was withdrawn.

Overall, I'm satisfied that NatWest met the evidential requirements for loading a Cifas marker set out in the National Fraud Database Handbook and so I'm satisfied it acted fairly and reasonably in loading the marker.

Final decision

For the reasons I've explained above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 28 June 2022.

James Kimmitt
Ombudsman