

The complaint

Mrs C complains that Cumbernauld South Credit Union Limited failed to credit her account with a cash deposit.

What happened

Mrs C has explained that she asked to withdraw the majority of her funds from her account at the start of the pandemic in March 2020. Mrs C took her passbook which recorded the activity related to her account and asked to remove £5,000 by cheque.

A Cumbernauld director who was responsible for dealing with Mrs C saw that there was a difference between Mrs C's passbook and the computerised records. Mrs C was told that 2 x £500 deposits recorded as standing orders made the previous year by another director had been an error. Mrs C was told her account was £1,000 less than she believed.

Mrs C told Cumbernauld that she hadn't ever used a standing order and the two deposits were made in cash. Cumbernauld explained to Mrs C that they couldn't look into the matter because of the pandemic. Mrs C didn't hear anything from Cumbernauld and about 4-5 months later she went to their office accompanied by her representative to discuss the matter.

Cumbernauld couldn't find any errors within their records apart from the updates to Mrs C's passbook which they said was a genuine error on their part. Cumbernauld declined to refund Mrs C and she made a complaint which was again declined. It was alleged that the funds had been stolen, which Cumbernauld denied.

Mrs C then brought her complaint to the Financial Ombudsman Service for an independent review. It was looked into by one of our investigators who asked both parties for information. Mrs C explained that the two deposits were the result of income from a business run by another family member and provided copies of her passbook. Mrs C also explained that she had poor eyesight. She was also critical of how Cumbernauld had advised her about the complaint and referred to a previous incident involving a Cumbernauld director.

Cumbernauld provided testimony about what had happened and details of Mrs C's account including a computerised statement, paying in slips and cheque withdrawal requests. It was also stated that the director who dealt with Mrs C at the time the two deposits were recorded was no longer working with them.

After considering the complaint, our investigator upheld it and Cumbernauld provided further information about their process. They explained that they had a system of different coloured pens and separate duties carried out by tellers and directors. This meant that directors wouldn't accept cash over the counter and tellers were supervised when dealing with deposits. Entries in passbooks were in red if it was a director and those in black were by a teller who could accept cash deposits.

After reviewing this information, our investigator changed his outcome and didn't uphold the complaint. Mrs C disagreed with the outcome and believed that she'd deposited funds which

hadn't been accounted for by Cumbernauld and wanted a refund. Mrs C wasn't able to provide any further information about the source of the funds.

The complaint has now been passed to me and I issued a provisional decision where I said:

The complaint here is that funds were deposited and not dealt with properly by Cumbernauld. They, on the other hand, believe the entries into Mrs C's passbook were a genuine error.

I've examined the available records here and it's apparent that two entries were made on Mrs C's passbook that show deposits of £500 each time. Those entries aren't dated, although Cumbernauld believe they were made at the same time Mrs C requested an earlier cheque which was given to her in September 2019.

The passbook has a mixture of black and red inks. But I also noticed that an entry by the Cumbernauld director uses both black and red ink. This is at odds with how Cumbernauld have explained their system works. They also stated that directors don't deal with cash at the counter, but it's Mrs C's case that she deposited that cash with them and the only entries recording this are made by a director in red ink. Those entries refer to standing orders which Mrs C doesn't use. This is confirmed when looking at her statements. Mrs C often deposits similar amounts to those that are the subject of this complaint.

Mrs C couldn't provide any further evidence of the source of the funds. Whilst it would have been beneficial to the situation to be able to show a more definitive trail of the source of the deposits, that's not always possible and it's also not a requirement for Mrs C to provide this to Cumbernauld. I've considered Mrs C's testimony as evidence that she deposited the funds.

Some of the evidence provided by Cumbernauld in the form of deposit slips contain various corrections and handwritten notes. It's not particularly easy to follow the calculations – for example a deposit made on 12/6/2019 for £500 also contains notes that update administration fees and dividend entries but these aren't added to Mrs C's passbook until much later. This means that totals are different depending whether the passbook is used or the computerised records. I couldn't see any particular reason why the passbook wasn't updated at the same time the deposit slip was completed because the relevant information had already been recorded on the computerised records.

It appears that the same director added the administration fees and dividend whilst at the same time entering the deposits. I found it odd the records were completed in this way and I don't think they're particularly persuasive when it comes to demonstrating what happened.

Cumbernauld have told our service that they check the records when account holders make a withdrawal request. But, Mrs C had already asked for an earlier withdrawal in September 2019 when the entries for the deposits had already been made, so it was apparent at that point that there was an issue with the records. Nothing was done at that stage and it wasn't until Mrs C came back some months later to request the majority of her funds that Cumbernauld raised the problem. I'm not sure why the issue wasn't raised at the time as it would have been a simpler matter to deal with as the information about what happened would have been much fresher in everyone's minds.

Cumbernauld told our service that they carried out checks on their financial records and couldn't find any errors, but I'm unsure how such records can assist when it was many months after the event and staff had left the organisation. I accept that they would be able to tell what funds had been deposited, but I wonder how they'd be able to confidently identify errors related to a cash deposit.

I appreciate Mrs C, through her representative, believes the loss of her funds was due to staff involvement, but there's currently no evidence of that and as far as I'm aware, no report has yet been made to the police.

When Mrs C was first told about the problem in March 2020, Cumbernauld maintained that they couldn't do anything because of the pandemic. Nothing happened for several months until Mrs C got back in touch with them. Whilst I appreciate that the pandemic caused many organisations to change the way they worked, I don't think a delay of such a long-time aided Mrs C in dealing quickly with her reported loss.

I appreciate Cumbernauld are staffed by volunteers, but they also had a responsibility to maintain their function when they were holding funds for account holders, including the investigation of missing funds. Cumbernauld weren't aware of how this issue was impacting Mrs C and I haven't seen any evidence that they attempted to resolve the issue prior to her visiting the branch some months later.

Overall, Cumbernauld's records concerning the activity on Mrs C's account show two deposits which have been completed by a director. Mrs C only deposits cash – borne out by the historical use of her account, so it seems to me that various records completed by Cumbernauld are at odds with each other. Their assertion about how the passbook is completed isn't supported by the evidence. There are dates missing from the passbook and the completion of records at different times makes it difficult to accept that Cumbernauld were correct when they believed a genuine error had been made when making entries to her passbook.

I'm currently minded to uphold this complaint and intend to instruct Cumbernauld to refund the £1000 deposited by Mrs C, to include interest at 8% per annum (simple interest) for the loss of use of these funds. I also intend to instruct Cumbernauld to pay Mrs C £250 for their handling of the issue and the delays they caused in investigating the loss of her funds.

I invited Mrs C and Cumbernauld to give me any more evidence and information they wanted me to consider before issuing my final decision. Mrs C accepted my provisional decision and Cumbernauld responded, saying in summary that:

- Cumbernauld were shut due to the pandemic for some months and only opened initially for one day in July before extending their opening days.
- They believe that Mrs C would have had to come in twice to make the payments and either didn't check her passbook or didn't make the deposits.
- They stressed that Director's didn't handle cash deposits.
- The delay in updating Mrs C's passbook was due to internal processes.
- The former Director couldn't add anything to the situation.
- Cumbernauld feel that they are being fined three times for the complaint.
- Cumbernauld still believe it was an error.

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.

Having done so, I haven't seen anything that would change the outcome of my provisional decision and I'll explain why.

I recognise this complaint is finely balanced and I'd like to thank both parties for their patience while I've reviewed all the evidence provided, including the additional comments I've received.

Cumbernauld thought that there would have been more evidence of the £500 deposits from Mrs C's husband. Unfortunately, he was unable to directly provide any further evidence due to personal circumstances, so I've accepted the testimony from Mrs C that her husband was the source of the funds from his employment.

Cumbernauld presented further information after I issued my provisional decision including their reasoning behind the delay in investigating Mrs C missing funds. Whilst it's clear that Cumbernauld could do nothing further about the issue during the lockdown, they were still operating some weeks prior to Mrs C's visit. I'm still of the opinion that Cumbernauld had an obligation to investigate the matter as a priority, but that didn't happen here. The evidence is that Cumbernauld waited for Mrs C to come back to them – but I think it was Cumbernauld's responsibility to carry out their investigation and contact Mrs C about it.

Cumbernauld believe that the entries into the passbook were likely made over two visits, which is evidence that Mrs C's deposits would have been noticed by her because she should have checked her passbook. Mrs C has also been able to confirm the deposits were made on two separate visits as well, although due to the time that's passed, she can no longer remember when she made them.

When I've examined the passbook, the entries appear to be by the same person. Because dates are missing in the appropriate date column, it's difficult to be definitive. Mrs C has also commented that her eyesight isn't as good as it was, so this may have added to her lack of notice at the time about the Standing Order entries.

What is apparent is that both Cumbernauld and Mrs C believe that the entries were made on two different visits. It would be reasonable to assume that Mrs C would only make a visit if she had something that required Cumbernauld's attention. It doesn't seem likely that Mrs C would visit Cumbernauld on two occasions just to have her account updated with administrative entries. More likely it was because she was depositing cash as she has testified. Whilst I could accept that an administrative mistake was made during one visit, for the same error to be made on two different visits just doesn't seem likely.

Cumbernauld stressed that Directors don't handle cash, and whilst I accept that's their policy, the evidence from Mrs C is that she deposited two amounts of £500 cash. There's an entry completed in both red and black ink, so it's difficult to accept that Cumbernauld's systems were operating in the way they described, although I recognise that corresponding paperwork usually completed by cashiers wasn't found by Cumbernauld.

When the passbook was completed by the Director, there were two entries of £500 for Standing Orders. I've thought whether this could have been an error by the Director who mixed up the passbooks or mistook who they were dealing with. But, in such cases, I would expect to see a corresponding account that was missing these entries. To date I haven't seen any evidence of this.

Cumbernauld detailed their internal processes that caused some delays in updating the records between the computerised systems and their members passbooks, including their annual audit. I accept that there will be some delays, especially considering the nature of Credit Unions. But, the delay in completing all their various records including Mrs C's

passbook, the delay in the investigation into the matter until 2020 have contributed to the lack of clarity over what happened at the time.

I do recognise the voluntary nature that Cumbernauld operates under, and this no doubt created more difficulties for them during the pandemic. But, they also have a responsibility to their members, and the record keeping and delays in dealing with Mrs C's claim hasn't led to fair treatment for her here.

Putting things right

Cumbernauld felt that the redress I laid out in the provisional decision was punishing them by fining them three times. So, I thought it appropriate to clarify that the Financial Ombudsman Service doesn't punish or fine businesses. Our role is to determine complaints from eligible complainants about their individual concerns.

So, the three parts to the redress are to repay the £1,000 deposited by Mrs C - to put her back in the position she would have been prior to the error, then to add 8% simple interest which is the same figure used by civil courts in their judgements. This is to recognise the lack of use of the funds available to Mrs C for the time she was without them. I would clarify that the 8% figure is only from March 2020 to the point it's repaid. The final aspect is to recognise the impact this had on her and I think a payment of £250 is appropriate here. Cumbernauld could have done more to investigate the matter sooner; the delay has made investigating the issue far more difficult that it could have been and continued to have a detrimental impact on Mrs C.

My final decision

My final decision is to uphold this complaint and Cumbernauld South Credit Union Limited are instructed to settle it as described above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 6 December 2022.

David Perry
Ombudsman