

The complaint

Mr B complains that TSB Bank plc has registered a marker at CIFAS, the national fraud database.

What happened

Mr B says he was the victim of identity theft in 2020 and that an account at TSB was opened without his knowledge. He says that an account at a different financial business was also subject to fraud and that this business had accepted he was the victim and removed the CIFAS marker.

TSB said it hadn't made a mistake. It explained in a final response to Mr B that an account had been opened in his name online on 16 November 2020. This followed an account application using his then current address on 12 November 2020 which wasn't completed. The account opened had the same email address, telephone number and date of birth that Mr B had used on his complaint form. On 26 November 2020 it received a report that funds paid into the account had been obtained fraudulently. It attempted to contact Mr B with the details it had to allow him to prove he was entitled to the money. No response was received, and the account was closed on 8 February 2021 and the CIFAS marker added. It didn't accept that Mr B had been subject to impersonation fraud.

Our investigator didn't recommend that the complaint be upheld. Mr B had only said he'd lost his bank card for his account at the other financial business. And he'd insisted that he didn't share his personal and banking details with anyone. She'd seen the applications made in his name and with the information that matched. And also, that a copy of his passport was provided, and he was verified with a picture taken during the application. It was unclear how an unknown third party could have obtained the information and impersonated him. Mr B hadn't shown he was entitled to the funds received in his account. And so, it was fair that the account had been closed and the marker added. The other financial business had agreed to remove the marker it had applied but this marker was for different reasons.

Mr B didn't agree and wanted his complaint to be reviewed. He said that the letter he has from CIFAS gave the same reasons for both TSB and the other financial business applying the markers. And he says that it is easy for a fraudster to get people's details. While both financial businesses had been right to take the action at the time once he'd provided information about what happened the other business had removed the marker. He said it had recognised his young age and his circumstances and he thought that TSB had handled things in a ridiculous way.

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, TSB 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.

This is a complaint only about TSB and what it did. And I'm not bound by what a different financial business may have found. While the wording on the CIFAS letter in relation to both CIFAS markers refers to the 'misuse of facility' and 'retaining a wrongful credit' I'm looking at the circumstances relating to the TSB marker. And that relates to a different account and completely different transaction. That's what our investigator was getting at in distinguishing things and it's what I think is relevant too.

I appreciate Mr B's position is that he was subject to identity theft in 2020 and that this led to a number of issues for him. What I need to think about is how the TSB account involved here came to be opened. While it's not impossible that an unknown third party opened an account in his name I don't think that's most likely. And I refer to what TSB has set out about the information used to open the account and the relationship to correct information about him and further the match of his photographic identity. He's referred to his age at the time and having difficulties, but I'm not persuaded in this case that these are either an explanation or mitigation of what happened. And he'd be complicit in things even if say he'd allowed his details to be used by someone else unless he could reasonably explain why he'd done that.

The account was quickly used for the receipt of fraudulent funds. And these were then moved on the same day. Mr B hasn't shown that he was entitled to that money.

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

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

So, I'm afraid I don't have a reasonable basis to require it to remove the marker. I can appreciate how disappointed Mr B will be given what's he said about the impact of this for him on accessing other financial products.

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 B to accept or reject my decision before 13 December 2022.

Michael Crewe
Ombudsman