

The complaint

Mr A complains that National Westminster Bank Plc added a marker at CIFAS, the national fraud database, when it closed his account.

What happened

NatWest said that it received a report that credits of £1,680 paid into Mr A's account on 23 January 2017 were fraudulent. It wasn't satisfied with his explanation, that it was repayment of a gambling debt from a friend, and it closed his account and registered a CIFAS marker.

Our investigator didn't recommend that the complaint be upheld. She said that CIFAS set the requirements for a marker and NatWest had given Mr A the opportunity to explain what happened at the time. It had given him notice of the closure of the account in line with the terms and conditions. She thought Mr A could have done more at the time to mitigate things when his account had been blocked and closed. It seemed that the marker would have been removed by now after it had been in place for six years.

Mr A didn't agree and wanted his complaint to be reviewed. These credits were from a person he knew and were a sum of money owed. And that person had made multiple payments that day thinking it was funny. He said that these sort of payments into his account weren't unusual and he thinks he'd received money from this person before. The marker has affected his ability to obtain credit and his credit score.

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.

To meet the standard of proof required to register a CIFAS marker, the bank must carry out checks of sufficient depth and retain records of these checks. This should include giving the account holder the opportunity to explain the activity on their account in order to understand their level of knowledge and intention.

I've taken into account guidance from CIFAS about cases where someone receives fraudulent payments into their account like this – acting as a so called 'money mule'. And that relevant factors in deciding whether Mr A was deliberately complicit in what happened include whether he knew or ought to have known that the money wasn't legitimate, whether he may have benefitted from the money by keeping part and whether he has provided generic or inconsistent explanations.

I've seen that this money which came in a number of payments was reported as having been fraudulently obtained. When Mr A submitted his complaint form to this service he only referred to the smaller payments being related to him being paid for 'lent coins'. When our

investigator provided him with a copy of his statement showing the larger payments including one for £1,380 that day he said that this related to money he'd lent to his friend for gambling. He says he attended the branch at the time with that friend to discuss this and he says that the account the money was sent from wasn't closed. Since our investigator's view a person who says he was the sender of the money at the time has emailed this service stating that he sent Mr A money in separate parts to annoy him because Mr A had kept asking for it. And that he was surprised that Mr A's account was closed.

I appreciate the time that has passed since the credits were received. But Mr A had the opportunity to present clear evidence to NatWest at the time including of any related loan. I note that payments were made out of Mr A's account for more than the amount of the credits that day. Having taken into account all the evidence I'm not persuaded on balance that Mr A has shown that he was legitimately entitled to this money.

Mr A says that it applied the CIFAS marker because Mr A 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. 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 A's account of events and the evidence he 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 A received fraudulent funds into his account and didn't report this to NatWest at the time.
- He authorised the withdrawal of the funds and so was in control of who had the benefit of this money.
- NatWest had grounds to believe that Mr A had used fraudulently obtained funds based on the evidence it had.

Given this I also don't find it was unreasonable for it to close his account. So, I won't be asking it to do anything further. I appreciate that this will be a disappointment for Mr A who says he's been affected by this marker over the past six years when making applications to financial businesses.

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 A to accept or reject my decision before 15 May 2023.

Michael Crewe
Ombudsman