

The complaint

Mr R has complained that Nationwide Building Society ('Nationwide') closed his account without notice and placed a Credit Industry Fraud Avoidance System ('CIFAS' - the UK's fraud alert service) marker against his name. He says this is impacting him financially and wants the marker removed and his account to be reopened.

What happened

In August 2023 Nationwide got in touch with Mr R to ask about two payments which had been made into his account for £15,000 and £5,000 respectively. Nationwide said it had concerns about the payments and had frozen Mr R's account while it investigated the matter. It said Mr R could withdraw any benefits or salary he was receiving in the meantime by attending a branch. It asked for evidence of where the funds had come from.

Mr R responded on the same day and said that the payments were made by an acquaintance of his who was helping him financially. He provided screenshots from their account showing the two payments. Mr R also said that his acquaintance had been hospitalised as a result of stress caused by their own bank.

On 29 August 2023 Nationwide informed Mr R that it had decided to close his account with immediate effect. It said that its investigation concluded that he had no entitlement to any remaining balance and therefore no money would be returned to him upon closure of the account. Nationwide said that its decision was based on Mr R acting with fraudulent intent and that he was no longer welcome to bank with it.

Nationwide responded in September 2023 to say that the evidence provided was insufficient and asked for more information to prove Mr R's link to the sender such as their full bank statement and any conversations about the funds being transferred.

Mr R responded a week or so later and said that the funds were paid as a gift to him to honour a private friendship goal he had set together with the sender. He provided a copy of the sender's driver's license as proof of their friendship and said the sender was "no longer with us".

Nationwide didn't think the evidence provided was sufficient and decided to register a CIFAS marker against Mr R.

Mr R wasn't happy with Nationwide closing his account and registering a CIFAS marker against him and complained.

Nationwide responded to the complaint in December 2023 but didn't uphold it. It said that it wasn't able to remove the CIFAS marker without evidence. It acknowledged that Mr R had sent further evidence and said this was being reviewed.

Mr R then brought his complaint to us. Mr R said he received a cold-call from someone around June 2023 who said they would help him invest in cryptocurrency. He said that the £15,000 and £5,000 payments were profit he had made but he was later asked to transfer those payments out to someone he believes was a scammer. He said he was threatened to do so or he would lose all his money. He said he moved the funds into a business account and then onto the scammers. Mr R also said that the scammers had remote access to his computer and were emailing Nationwide when it was making enquiries about the funds. Mr R said to us that he, himself, was the victim of a scam and that he had lost around £50,000. He said the scammers told him never to report the matter to his bank. He said he received £20,000 in total from one payee and was told to transfer it to two other accounts by the scammers. He said he was also told to open an external account which he transferred money from his joint savings account to, via his current account. He said the CIFAS marker is preventing him from opening other accounts and he's also had notification from another bank that they would be closing his accounts.

Nationwide issued a further final response letter and said that it stood by its decision to close the account. It said the decision was in line with its legal and regulatory obligations.

One of our investigators reviewed the complaint but didn't think it should be upheld. She said that Nationwide was acting in line with its legal and regulatory obligations when it asked Mr R for proof of entitlement to the funds as well as when it closed the account with immediate effect. She also noted that Mr R's funds had since been returned to him. Our investigator added that she'd seen no persuasive evidence that he had been the victim of a scam and she was satisfied, on balance, that Mr R was complicit. She also noted inconsistencies in Mr R's account of events. Mr R provided some video evidence which he said showed the scammers using his computer remotely. Our investigator didn't agree that this was evidence of this and didn't change her view.

Mr R didn't agree and asked for an ombudsman's decision so the matter was 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.

Mr R held a current account with Nationwide and also a savings account he held jointly with his wife. This decision is only about his individual current account.

The closure of the account

Nationwide has important legal and regulatory responsibilities to meet when providing accounts to customers. Those obligations are ongoing and don't only apply when an account is opened. They can broadly be summarised as a responsibility to know its customers,

monitor accounts, verify the source and purpose of the funds as well as detect and prevent financial harm.

Nationwide will review accounts to comply with these responsibilities. It's common practice for banks and other financial service providers to restrict access to accounts to conduct a review- doing so helps prevent potential financial loss or other harm that could otherwise result.

Nationwide's terms and conditions say that it can close an account by giving two months' notice or with immediate effect in certain circumstances.

Having reviewed all the evidence, including the information Nationwide provided in response to the investigator's view, I'm satisfied that it was acting in line with its legal and regulatory obligations when it reviewed Mr R's account.

I've also considered the basis for Nationwide's review, which I find was legitimate and in line with its legal and regulatory obligations. So I'm satisfied Nationwide acted fairly by blocking Mr R's account.

As I said above, Nationwide decided to close the account with immediate effect.

Having looked at all the evidence and the terms and conditions I'm satisfied that Nationwide was acting fairly and reasonably when it closed the account with immediate effect. Nationwide has provided some further details of its decision-making process which, unfortunately, I can't share due to its commercial sensitivity. But I've seen nothing to suggest that Nationwide's decision around closing Mr R's account was unfair.

The CIFAS marker

The marker that Nationwide has filed with CIFAS is intended to record that there's been a 'misuse of facility' – relating to using the account to receive fraudulent funds. In order to file such a marker, it's not required to prove beyond reasonable doubt that Mr R is guilty of a fraud or financial crime, but it must show that there are grounds for more than mere suspicion or concern. CIFAS says:

- *“There must be reasonable grounds to believe that an identified fraud or financial crime has been committed or attempted; [and]*
- *The evidence must be clear, relevant and rigorous such that the member could confidently report the conduct of the subject to the police.”*

What this means in practice is that a bank must first be able to show that fraudulent funds have entered the consumer's account, whether they are retained or pass through the account. Secondly, the bank will need to have strong evidence to show that the consumer was deliberately dishonest in receiving the fraudulent payment and knew it was, or might be, an illegitimate payment. This can include allowing someone else to use their account in order to receive an illegitimate payment. But a marker should not be registered against someone who was unwitting; there should be enough evidence to show deliberate complicity.

The relevant finding for me to make is whether I think there is sufficient evidence to meet this standard of proof, to determine whether Nationwide was entitled to escalate its concerns. Having looked at all the information provided, I'm satisfied it has and I say this because:

- Nationwide got in touch with Mr R about two transactions, one for £15,000 and one for £5,000. Both were from the same sender. Nationwide asked Mr R for proof that he was entitled to those funds. Mr R provided Nationwide with an explanation saying the sender was an acquaintance of his and that the money was a gift. He also provided the sender's driver's license and a screenshot from their account.
- Mr R also had various telephone conversations with Nationwide over that period where he maintained that the proof he provided was sufficient to show that he was entitled to the funds. He also complained in September 2023 and said that the closure of his account was unfair as Nationwide didn't provide any tangible reasons as to why his evidence wasn't accepted. He mentioned the sender by name and said he had sent him £20,000 from their personal account. He said the money was not fraudulent.
- After the CIFAS marker was registered against him Mr R told Nationwide that he didn't know anything about the £20,000, that he didn't know the sender and that the money was fraudulent. He said he had been the victim of a scam and that the scammers told him what to say to Nationwide. He said the scammers told him to send money onto another individual's account and that when he told them that his own account had been closed they stopped contacting him. He said they also said he wouldn't get his money back if he didn't follow their instructions.

When I weigh everything up, I'm not persuaded by Mr R's version of events. Having looked at all the evidence, including some evidence which was shared with us in confidence and which I can't share with Mr R, I think there would've been good grounds to report the events here to the police to investigate, and that Nationwide was therefore justified in placing a CIFAS marker against Mr R's name. I think the evidence shows that Mr R was involved in a deliberate misuse of facility as a money mule. In saying this I have also taken into account the inconsistencies in Mr R's account and the fact that he only mentioned he had been the victim of fraud after the CIFAS marker was recorded against him. So I won't be asking Nationwide to remove the marker.

Mr R says that he himself was the victim of a scam. He said that the fraudsters were threatening not to return his money if he didn't cooperate, that they accessed his computer remotely and were conversing with Nationwide. I have considered what Mr R has said but I don't think the evidence he has provided supports this. He has provided some videos but they don't show someone logging remotely onto his computer. And, as I said above, Mr R himself told Nationwide that the payments were legitimate at the start during telephone conversations. So even if I were to accept that he wasn't the one who sent the emails, there are also the telephone conversations which don't support his version of events.

I appreciate Mr R will be disappointed with my decision and I fully appreciate the impact the fraud marker is having on him. I have listened to his calls with Nationwide and I can see that he is extremely distressed by what happened. He strongly supports that he didn't commit fraud and that he was coerced into taking the actions he did. As I said above, on the evidence provided I can't, on balance, say that Nationwide was wrong to record the CIFAS

marker or to close his account immediately. But if Mr R obtains further evidence in support of what he says happened he is free to present it to Nationwide for it to review.

My final decision

For the reasons above, I am not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 10 October 2024.

Anastasia Serdari

Ombudsman