

The complaint

Miss L has complained Pockit Limited lodged a fraud-related marker on the industry fraud database, CIFAS, in her name.

What happened

In 2022 Miss L opened an account with Pockit but didn't really use it. She had a friend to stay who also had a Pockit account and was showing her how to. By December 2022 Miss L noted there was a fraud-related marker on her record with CIFAS. She tried to repeatedly contact Pockit and ask them to explain why. They only told her that she had to review her account, but she was unable to do this as her account was blocked.

After many attempts, Miss L got a final response from Pockit allowing her to raise her complaint with the ombudsman service.

Our investigator reviewed the evidence which initially included nothing from Pockit. Their eventual evidence showed numerous fraudulent credits and then payments over a short period. This seemed to coincide with another phone linked as a trusted device on Miss L's account.

Our investigator didn't believe there was sufficient evidence to show Miss L's involvement and asked Pockit to remove the CIFAS marker. This episode had caused Miss L considerable inconvenience, so Pockit were asked to give her £100 in compensation.

No response was received from Pockit, so Miss L's complaint has been referred to an ombudsman.

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've reached the same outcome as our investigator. I'll explain why.

It is clear what the requirements are prior to lodging a marker. Specifically:

“There must be reasonable grounds to believe that an identified fraud or financial crime has been committed or attempted.

The evidence must be clear, relevant and rigorous.”

So Pockit must be able to provide clear evidence that an identified fraud was being committed and Miss L was involved.

There's also a requirement that Pockit should be giving the account holder an opportunity to explain what was going on.

I've seen the evidence provided by Pockit. This confirms they received numerous

notifications from other banks that their customers had been scam victims. The money from those customers had credited Miss L's account with Pockit and then immediately moved on to a cryptocurrency account. The trusted device linked to the Pockit account at the time seems to be a device, separate to Miss L's, which was in all likelihood set up by Miss L's 'friend' when they stayed with her in early November.

As stated above Pockit should be offering Miss L the opportunity to explain what happened. Despite Miss L regularly raising concerns with them, they provided her with little or no information. She was told to take a look at the account. However, Miss L was unable to do so as her access was restricted. Now I can appreciate Pockit may have regulatory concerns but their action means that Miss L was never able to explain to them what she thought may have happened.

As soon as Miss L referred her complaint to our service, she was upfront and told us she'd believed she'd been a victim of account takeover. It certainly seems from Pockit's evidence that another device was linked to her account, and this seems to coincide with the time her account was used for fraudulent credits.

The requirements around banks lodging markers at CIFAS include there being sufficient evidence that the customer was aware and involved in what was going on. In this case I'm not convinced this exists here from reviewing both Pockit's evidence and Miss L's testimony.

Putting things right

On this basis I believe it would be fair and reasonable to ask Pockit to remove the CIFAS marker.

Pockit's response to our service has been confused and contradictory. So, I'm not at all surprised to find that Miss L found it difficult to sort out any issues with them. I'm satisfied their actions added to her inconvenience. I believe it's fair they pay her £100 in compensation.

My final decision

For the reasons given, my final decision is to instruct Pockit Limited to:

- Remove the CIFAS marker from Miss L's record; and
- Pay Miss L £100 for the inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss L to accept or reject my decision before 31 October 2024.

Sandra Quinn
Ombudsman