

The complaint

Mr L has complained that The Co-operative Bank Plc registered a fraud marker against him.

What happened

In 2022, Mr L fell victim to an investment scam.

In late 2023, Mr L received a £420 transfer from someone he didn't know. The scammer got in touch and explained they had it sent to Mr L. Mr L asked how to return it, as he didn't have the sender's details. The scammer gave him account details to send the money to, explaining that it had come from an employee of theirs as part of a system process, and that if Mr L sent it to the details provided it would complete the process and help unlock and return money which Mr L had lost in his prior investment.

Mr L attempted to send the £420 to the details provided, but The Co-op flagged this as suspicious and blocked it. It emerged that this money had actually come from a victim of fraud, and the scammer was trying to get Mr L to act as a money mule. The Co-op returned the money to the victim. Mr L explained what had happened to The Co-op. The Co-op registered a fraud marker against him, saying it had told him in 2022 to block the scammer. It also closed his account.

Our Investigator didn't uphold the complaint. Mr L didn't agree, so the complaint's been passed to me to decide.

I sent Mr L and The Co-op a provisional decision on 24 July 2024, to explain why I thought the complaint should be upheld. In that decision, I said:

I need to consider whether this report to Cifas was made fairly. On this point, The Co-op needed to have more than just a suspicion or concern. It needs to be able to show that it had reasonable grounds to believe that fraud or a financial crime had been committed or attempted, backed up by evidence which would support it being reported to the authorities. Importantly, it needs to be able to show that Mr L attempted illicit activity knowingly and willingly, and that he was not an unwitting participant.

While The Co-op received a fraud report from the sending bank, and had grounds to be suspicious and concerned, I currently find that it did not have sufficient grounds to register or maintain this marker.

Mr L was open with The Co-op about what had happened. He gave clear and consistent testimony, which put The Co-op on notice that he was simply being scammed again. He was clear that the money was not his, and never claimed any entitlement to the funds. He set out that he just wanted to get the money to the right place, and as he didn't have the details of where it came from, he instead used the details he was given. Mr L was co-operative throughout the investigation.

Mr L offered The Co-op his full chat logs with the scammer, which The Co-op noted in its review. But disappointingly, The Co-op did not take him up on this. The staff member instead said that they should already have all they need, they'd let Mr L know if they needed more information, and that they'd "get this situation forgotten about". Then The Co-op registered a fraud marker without getting this key evidence. This was a substantial failing by The Co-op.

Had The Co-op looked at the message log, it would have seen that Mr L asked to just return the money, but the scammer insisted that the proper process was to send it to the details provided, and that if Mr L initiated a return his account would be banned permanently. Mr L asked who the sender was, and the scammer explained they were an employee, who they'd asked to send Mr L the money to assist him in getting his lost investment back, as part of a system process, and to avoid Mr L having to pay the fee himself. They assured Mr L they were just trying to help him. When Mr L's account got blocked, the scammer explained this was because he was too slow and didn't complete the process, and if he completed the process his account would be unfrozen. The scammer put a lot of pressure on Mr L, harassing him with repeated messages, using insults, and eventually threatening violence. Once Mr L became suspicious of the scammer, he refused to help further and said he'd wait for his bank to investigate. This all supports Mr L's testimony.

I've not found any evidence which shows or reasonably substantiates that Mr L actually understood he was helping to launder fraudulent funds.

Indeed, The Co-op's own internal review said that the activity was out of the ordinary for Mr L, it had vulnerability concerns, it believed the customer did not realise he was being manipulated, and he was clearly confused. It concluded that this is not a money laundering concern, but a concern of him being scammed again. I agree with this assessment, and so I'm puzzled and disappointed by The Co-op's decision to then register a fraud marker against Mr L on grounds it already reasonably knew were incorrect.

The Co-op explained that it told Mr L back in 2022 to cease all contact with the scammer, and he failed to do this, which allowed his account to be used for fraud. I agree that Mr L acted very naively in going along with the scammer at first. And while I'm glad to see that Mr L refused to help the scammer in the end, he does need to make sure that he now blocks them and does not ever speak to them again in future, to avoid anything like this happening again. However, Cifas markers are not there to punish someone for naivety or for failing to protect themselves from being scammed. These markers are for people who knowingly and willingly attempt fraudulent activity. It was therefore clearly inappropriate for The Co-op to register this marker against Mr L on these grounds.

It follows that I currently think this marker needs to be removed.

I understand that Mr L is unhappy with how The Co-op blocked and later closed his account. But it was appropriate for The Co-op to block it while investigating a serious fraud issue, to make sure the account and funds stayed safe. And similar to how Mr L can choose who he banks with, The Co-op can broadly choose who banks with it. Under the terms of the account, it was allowed to close it in these circumstances, and it gave appropriate notice.

Lastly, The Co-op has already accepted that it unduly delayed its investigation, and that it communicated poorly with Mr L about how to access his own funds.

When a business gets things wrong, we often tell them to pay compensation, to acknowledge their error and the impact it had. Here, I understand that Mr L was caused substantial stress and upset, that he was unduly delayed in accessing his own funds when he needed them, and that he suffered disruption to his daily life over multiple months as he's been unable to have a bank account of his own. He's found this to be very mentally draining in an already highly stressful time. Taking into account the impact that The Co-op's errors had on Mr L, alongside our guidelines for compensation, I propose that The Co-op pays him £550 compensation to put things right.

I said I'd consider anything else anyone wanted to give me – so long as I received it by 21 August 2024.

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.

In response to the provisional decision, Mr L didn't add anything further.

The Co-op agreed to remove the marker and pay the proposed compensation, in an effort to resolve the matter. But it argued that Mr L had previously been scammed, had proceeded regardless of what the bank told him, had been given education on fraud and scams, and had not blocked the scammer despite being told to.

I'm glad that The Co-op has agreed to resolve things. And I appreciate that the situation may have been rather galling for The Co-op. But the fact remains that those were inappropriate reasons to add this fraud marker. Fraud markers are not there to punish customers for failing to listen to their bank, for acting naively, or for failing to protect themselves from being scammed. These markers are for people where it can be evidenced that they knowingly and willingly involved themselves in fraud or financial crime.

Here, I've not found any evidence which shows or reasonably substantiates that Mr L actually understood he was acting as a money mule for fraudulent funds. Instead, the message log strongly evidences that he was an unwitting participant who was given other reasons for sending the money on. This fits well with his clear and consistent testimony, his acceptance that the money was not his, his desire to just get it to the right place, his vulnerable position, and his willingness to be open and co-operative. And The Co-op would have had this message log in its possession had it investigated properly and taken it when Mr L offered it.

Instead, The Co-op failed to gather key evidence, failed to carry out a proper investigation, and added a marker which it already knew to be inappropriate. So I still find that this marker should not have been added and must now be removed.

Other than that, neither side have sent me any new evidence or arguments.

So having reconsidered the case, I've come to the same conclusions as before, and for the same reasons as set out in my provisional decision above.

As I mentioned before, Mr L should make sure that he's blocked the scammers now, and that he does not speak to them again or involve himself in something like this in future.

Putting things right

I direct Co-operative Bank Plc to:

- remove any information it's shared with fraud marker databases in relation to this matter; and-
- pay Mr L £550 compensation in total for the trouble and upset it caused.

My final decision

I uphold Mr L's complaint, and direct The Co-operative Bank Plc to put things right in the way I set out above.

If Mr L accepts the final decision, The Co-operative Bank Plc must carry out the redress within 28 days of the date our service notifies it of the acceptance.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 19 September 2024.

Adam Charles
Ombudsman