

The complaint

Miss M has complained Kroo Bank Ltd lodged a fraud-related marker on the industry fraud database, CIFAS, in her name.

What happened

In 2023 Miss M was asked by a friend if they'd open an account with Kroo and allow them to use it. Miss M was only 18 and didn't realise this would be against the terms and conditions of the account and potentially open the account to abuse for which she could be held liable.

Miss M's supposed friend changed the email and mobile details relating to this account and she never received any future correspondence from Kroo.

After Kroo was notified of credits to the account as a result of other banks' customers being scammed, they contacted the account holder using the details they held. The account was closed, and a fraud-related marker was lodged on Miss M's record with CIFAS.

Miss M subsequently discovered this was causing her difficulties having a bank account and found out what had happened. She asked Kroo to remove the CIFAS marker. Kroo didn't feel they'd done anything wrong and refused to remove the marker.

Miss M brought her complaint to the ombudsman service.

Our investigator reviewed the evidence. He felt that Kroo hadn't done enough to contact Miss M, nor did they have sufficient evidence to show Miss M was a participant in fraud and asked them to remove the marker. He also asked them to give her £600 in compensation. Miss M was suffering from poor mental health and had been obliged to pay for her banking services whilst having the CIFAS marker limit her options.

Miss M accepted this outcome, but Kroo disagreed. Miss M's complaint has been referred to an ombudsman for decision.

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 Kroo must be able to provide clear evidence that an identified fraud was being committed and Miss M was involved.

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

I've seen the evidence provided by Kroo. This confirms they received notification from customers of other banks that they had sent money to Miss M's Kroo account as the result of impersonation scams.

Miss M has told us she opened this account on behalf of a friend who wasn't able to open his own account. She now admits that this showed poor judgement, but she was trusting and didn't think he would use the account for fraudulent purposes.

Firstly, I have to confirm I'm satisfied that Miss M's account was used fraudulently. The fraud reports – along with evidence of the account use – confirm this.

What I need to be sure of, however, is that Miss M was aware of this and involved. I've seen no evidence of this. Whilst she was undoubtedly naïve and trusting, I'm not convinced Miss M was involved in the fraud on her account. She has been upfront about who did use her account, providing full details of this third party.

Kroo has confirmed this third party had already tried to open an account with them but they'd rejected his application.

Kroo has stated as Miss M *"has willingly surrendered her details, and the account is in her name, [Miss M] is to be held responsible"*. But that isn't what the CIFAS rules require. They must provide evidence of Miss M's complicity in fraud, and nothing has been shared with our service.

It's worth confirming that Kroo had sufficient reason for closing Miss M's account as she was clearly breaking the terms and conditions of her account.

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 don't think this exists.

Putting things right

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

There's no doubt that having bank accounts closed (which is what happened because of the CIFAS account) and limiting her access to money would have caused Miss M some distress. I also note that Miss M was a new student, and this has had an impact on her studies and her mental health. I believe, like our investigator, that £600 is fair and reasonable.

It's worth stating that I thought long and hard about this level of compensation. I was concerned that Miss M's actions – although not deliberate – did lead to fraud being conducted. It may seem that she now benefits from what happened. However, I have listened to her and her representative's testimony and I am satisfied this is fair and reasonable.

My final decision

For the reasons given, my final decision is to instruct Kroo Bank Ltd to:

- Remove the CIFAS marker in Miss M's name; and

- Pay her £600 for the inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 15 January 2025.

Sandra Quinn
Ombudsman