

## **The complaint**

Miss H complains National Westminster Bank Plc unfairly recorded a CIFAs marker against her. She wants the marker removed.

## **What happened**

Miss H held an account with NatWest. She says she agreed with her stepfather that he would close the account in 2020 on her behalf, as she wasn't using the account much and was instead using an account she held with a different provider.

Miss H says she was at college and had no time to close the account herself and wasn't familiar with the process of closing an account. She said she gave her stepfather her card and account details and left the matter with him. She says she deleted her banking application from her phone and had no knowledge of what was to later transpire.

Miss H's account didn't close in 2020 and regular transactional activity occurred on it. Between May and August 2022 multiple large payments credited the account by one individual, who Miss H says she doesn't know. These payments were later reported in 2023 as resulting from a scam.

NatWest contacted Miss H in late May 2023 about the payments. She initially responded to say she didn't recognise them and asked for her account to be closed. NatWest asked for further information on two further occasions in June 2023, but didn't receive a response. Dissatisfied by the information they received from Miss H, NatWest closed her account and recorded a misuse of facility marker against her on the National Fraud Database operated by CIFAs.

Miss H later received notice from her other account provider that they were closing her account. She discovered this was due to the CIFAs marker NatWest recorded of which she was previously unaware. She asked NatWest to remove the marker and said she had reported the matter to Action Fraud. She then raised a complaint about their decision not to remove the marker.

NatWest refused to remove the marker. They said they acted in line with their terms and conditions, so Miss H brought her complaint to our service.

An investigator at our service concluded Miss H's complaint shouldn't be upheld. They said:

- NatWest had shown the payments in question had been reported as resulting from a scam.
- Miss H had acted outside of the terms and conditions of the account by giving her details to her stepfather.

- The account was used regularly from June 2020 (the month Miss H said she last recognised a payment on the account) until August 2022. There were a variety of payments including online payments and cash machine withdrawals and NatWest had said her PIN hadn't changed and neither had her email address.
- Based on the available information NatWest had recorded the CIFAs marker correctly.

Miss H disagreed with the investigator's findings and asked for an ombudsman to make a final decision. In summary she highlighted that she trusted her stepfather to act appropriately as a parent, and she was unaware of fraudulent activity. She says she didn't make the payments or benefit from them, the marker was causing her distress and jeopardising her future, and she was also a victim. She provided copies of information received from Action Fraud and the police.

### **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've decided not to uphold Miss H's complaint. I appreciate this will disappoint Miss H, given the impact a CIFAs marker can have, and because of what she has said regarding her youth and herself being a victim.

To record the marker NatWest had to have reasonable grounds to believe that a fraud or financial crime had been committed by Miss H, and there must be clear, relevant, and rigorous evidence to support their conclusion. In summary, NatWest couldn't apply a CIFAs marker based only on suspicion without supporting information and evidence.

But there is a difference between what is required for a firm to record a CIFAs marker and the standard of proof required to convict someone of fraud or another financial crime. The information and evidence do not need to establish Miss H was guilty of fraud beyond a reasonable doubt.

So, I must consider whether the standard of evidence is enough in the circumstances of this complaint for the CIFAs marker to remain. On balance I'm satisfied there is sufficient evidence to show that the evidential standard is met.

Firstly, it's very evident the information NatWest hold clearly establishes the payments in question were all reported as resulting from a scam, so I have gone on to consider the information and evidence as it relates to Miss H.

I appreciate what Miss H says is possible – that her stepfather agreed to close her account, took possession of her card and account information, and then unbeknownst to her, misused her account.

I also acknowledge that Miss H's age may have meant she was more vulnerable to the actions of unscrupulous persons, although I note that she wasn't a minor at the time the payments reported as resulting from a scam credited the account.

However, based on the evidence before me, I don't find what Miss H has said persuasive in terms of her genuinely believing the account had closed in 2020 and being unaware of any subsequent activity on the account which took place after she made a small payment

transfer to her account in early June 2020.

When NatWest first contacted Miss H about the payments reported as resulting from a scam she said in an email in June 2023:

“I have no idea about these payments or it even entering my account, I hardly use my NatWest account. I would like to close the account please.”

I don't find what Miss H said here accords with her later explanation. Had she thought her account was meant to have closed, I would have expected her to have told NatWest at that time. Instead, she said she hardly used the account, which to my mind infers she knew the account was open, and she had used it, albeit she was saying to a limited degree.

NatWest pressed Miss H for more information about the payments in question, but she didn't respond until January 2024 after she discovered the existence of the CIFAs marker. I find the gap in Miss H not responding weighs against her. The narrative about Miss H's stepfather being tasked with closing the account and being given account information appears only to have been communicated once the consequences of the marker had begun to manifest.

NatWest has shown Miss H's contact details match those she provided to our service including her email address and phone number, and they were last updated some time before the activity in question took place. More specifically Miss H's current mobile number was updated on the account in January 2022, several months before the activity took place. I find it implausible a third party would update Miss H's mobile number to a valid number when according to Miss H's version of events they had secretly kept the account open without her knowledge.

There were multiple payments into the account by someone Miss H indicated to NatWest is her mother over the period from when Miss H had said she thought her account had closed until January 2022. I also see there were several credits to the account made by another person who shares Miss H's surname during this period. I find it unlikely Miss H's mother would make payments to her daughter's account at a time when the account was thought to be closed.

Miss H says she didn't benefit from the payments in question. But while substantive payments transferred out to accounts not held by Miss H following receipt of the payments reported as resulting from a scam, there was also in person spending at fashion retailers and supermarkets from those same proceeds. I cannot know for certain who made the in-person payments, but I don't find the transactional evidence shows Miss H didn't benefit in some way from the payments.

Miss H believes CCTV would show someone other than her withdrawing funds, and this may be the case. But given how long ago the payments happened, I wouldn't expect CCTV to have been available at the time the payments were reported as a scam. And even if CCTV did show other persons withdrawing money, this wouldn't demonstrate Miss H was unaware of the activity that had taken place or that she didn't later benefit from cash withdrawals or purchases.

Based on all the information and evidence I've considered, I'm satisfied there is sufficient clear, relevant, and rigorous evidence to have met the evidential threshold CIFAs required of its members to record a marker. As such I do not require NatWest to remove the marker.

**My final decision**

My decision is not to uphold Miss H's complaint for the reasons I have given above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 31 March 2025.

Liam King  
**Ombudsman**