

The complaint

Miss A complains that NatWest Bank Ltd unfairly registered a marker about her at Cifas, the national fraud database.

What happened

Miss A had an account with NatWest.

On 5 December 2023, three payments totalling just over £2,100 were paid into Miss A's account, from an individual I will refer to as K.

Following this Miss A immediately transferred £150 to an account in her name and then made another two payments for a total of £1,077 to another account via mobile banking using Ms A's mobile banking device.

NatWest were notified by another bank that the payment Miss A had received from K were fraudulent and that their customer had been the victim of a scam. On 5 December 2023, NatWest contacted Miss A and asked to provide information about the payments.

Miss A told NatWest that she still had her debit card; no one else had used her account or approached her to allow them send money to her account, and she hadn't given anyone her sort code, account number or online login details. Miss A said she had no idea who the funds belonged to, and she hadn't moved the funds for a third party, and she had no idea of how her account information had been compromised.

NatWest reviewed everything and decided to close Miss A's account immediately. Following this NatWest decided to place a fraud marker against Miss A's name with Cifas. This was for misuse of a facility in relation to retaining fraudulent funds.

Miss A discovered the marker when she completed a subject access request with Cifas in March 2024. Miss A complained to NatWest and said that the marker was preventing her from opening other accounts. So, she asked NatWest to remove the marker.

NatWest reviewed everything including what Miss A had told them. After doing so, it said it wasn't willing to remove the marker.

Unhappy with this response Miss A brought her complaint to our service. She wants NatWest to remove the marker. She said the marker has led to the closure of bank accounts he had. And that it was impacting his ability to take out credit and open other accounts. She maintained that he hadn't done anything wrong and wasn't a fraudster.

An investigator looked into Miss A's complaint and asked NatWest and Miss A for some more information about what had happened. In summary, Miss A told the investigator:

- She'd received the funds on behalf of a third-party, I'll refer to as D, whom she was in a long-distance relationship with.
- D had asked if he could use her account for a short period to pay his bills, because

he couldn't access his own account.

- She'd given D her account number; sort code and log in details and he had taken advantage and used her account to launder money.
- Regarding the transfers from her account following the credits received, Miss A said the £150 transfer was made to herself.
- Regarding the transfers of £1,000 and £77, Miss A said, D called her and asked if she could make the transfers, but she told him to do them himself.
- Miss A provided screenshots of her mobile phone messages with D. One of the messages showed Miss A sent D her sort code / account number and login details on 23 November 2023. These messages don't contain information that shows the reasons D was requesting these details.

After reviewing everything the investigator said that NatWest hadn't done anything wrong when it had recorded the marker against Miss A's name. And closed her account. So, they didn't uphold the complaint.

NatWest agreed with what the investigator said. Miss A didn't. She wants the marker removed and said that she had nothing to do with the fraudulent activity on her account. She said it was all carried out by D. And that it's unfair the marker will remain in place for six years.

As no agreement could be reached the matter has come 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.

The marker that NatWest filed with Cifas against Miss A is intended to record that there's been a 'misuse of facility' – relating to using her account to receive fraudulent funds. In order to file such a marker, they're not required to prove beyond reasonable doubt that Miss A is guilty of a fraud or financial crime, but they 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.*

What this means in practice is that a bank must first be able to show that fraudulent funds have entered Miss A'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. But a marker shouldn't be registered against someone who was unwitting; there should be enough evidence to show *deliberate* complicity. There's also a requirement that NatWest should be giving the account holder an opportunity to explain what was going on.

Here Miss A received funds into her account that were confirmed by a third party bank to have originated from fraud. The bank reported that their customer had fallen victim to a scam. And had sent money to Miss A's account.

On 6 December 2023, NatWest contacted Miss A and asked her what she knew about payments from K and whether she'd allowed anyone else to use her account. Miss A told

NatWest that she didn't know anything about the payments, hadn't shared her account details with anyone else or allowed a third party to use her account.

So, I need to consider whether based on all the information including the evidence Miss A has submitted to us, whether NatWest had sufficient evidence to meet the standard of proof and load a marker for misuse of facility with Cifas. Having looked at all the information provided, I'm satisfied they did, and I say this because:

- I've seen the evidence from NatWest that confirms they were notified by another bank that the money Miss A received from K originated from fraud.
- When NatWest asked Miss A about the payments at the time she said she didn't know anything about the money. Miss A also said she hasn't shared his banking details and hasn't allowed anyone to use her account.
- After bringing her complaint to our service, Miss A provided a rather different explanation to the one she gave NatWest. Miss A said she had no idea the money was fraudulent and that all the activity was conducted by D. And that she didn't carry out the transactions.
- Miss A has explained D asked her if he could use her account. And that agreed to help him out. And she has sent screenshots of messages between her and D. The evidence she has supplied simply shows Miss A providing her account details to D. But the screenshots Miss A has provided don't evidence her arrangement with D which would support her explanation, such as any messages between her and D prior to her receiving the funds. And why she was providing her accounts details to D in the first place. It's not clear to me why she didn't present the evidence she has now provided to this service to the bank at the time when she was given an opportunity to do so.
- I've considered what Miss A has said about the money she received from K. But I've also looked at the evidence NatWest has provided, and this paints a rather different picture to what Miss A has said about the funds.
- I say this because NatWest has provided technical evidence to show that upon receiving the funds, Miss A sent £150 to herself, and then sent just t over £1,000 to another account using the trusted mobile device linked to the account. If, as Miss A has suggested, she wasn't expecting the funds, and that the activity was carried out by D, I can't see how this could have happened without Miss A's knowledge or consent. Especially as all the transactions were carried out via Miss A' mobile device. And Miss A hasn't said she allowed D to use her mobile phone.
- The technical records show the same device that was first registered to the account for online banking on 13 November 2023 was used to make the transfers on 5 December 2023, and from the same IP address Miss A had logged in from, after completing her mobile banking registration on 13 November 2023. The records do not show that any other device was used to access Miss A's account.
- If Miss A didn't think she was entitled to the money from K I would have expected her to have alerted NatWest that there was fraudulent activity on her account. But I've not seen any evidence that she did so. With this in mind, I think Miss A knew or ought reasonably to have known, that the account was being used for fraudulent purposes.
- Most significant is that more recently Miss A has told us that she did make the £150 payment to herself, which would have required her to have some knowledge of the money she received from K as the payment made use of Ks funds. Overall, this leads me to doubt the credibility of Miss A's version of events and suggests to me that

Miss A was potentially involved in fraudulent behavior.

- I've considered what Miss A says about the impact the marker has had on her. But she hasn't described being placed under any duress or being especially vulnerable. In my view, based on all the evidence, I think it's most likely she allowed her NatWest account to be used for receiving fraudulent funds. And I think she was a willing participant in this and in moving the money on and spending it. And that she reasonably knew this wasn't a legitimate activity. So, I'm not convinced Miss A is an innocent party. I think the evidence shows that Miss A was involved in a misuse of facility.

In summary, 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. Miss A has received funds into her account that have originated from fraud. She has been unable to provide any corroborative evidence to support her testimony that she is an innocent party of the transfer of the funds and was unaware of their origins. I also find that the suspicious circumstances of the movement/use of the money and explanations provided by Miss A about what he did with K's money adds weight to this argument.

Having looked at all the evidence I'm satisfied this shows there were reasonable grounds to suspect that fraud had been committed. And from evidence I've seen that Miss A was likely complicit in this. On this basis I didn't think it would be fair or reasonable to ask NatWest to remove the marker or pay Miss A compensation.

My final decision

For the reasons I've explained, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss A to accept or reject my decision before 3 April 2025.

Sharon Kerrison
Ombudsman