

## The complaint

Miss B complains TSB Bank plc, recorded a marker against her on a fraud database and closed her account. She doesn't think it's treated her fairly.

## What happened

A summary of what happened is below.

Miss B held an account with TSB. In October 2024, she received payments from a third-party, through bank transfers. One payment credited the account, but another one was prevented. Miss B withdrew the funds the same day through outbound payments; however, the incoming payments were later reported as being the result of a scam.

TSB restricted the account and requested information to support why she had received the funds. Miss B said the payment was from someone she knew ('A') who owed her, and she'd sent the funds onto someone else she knew, her cousin, ('O'). TSB questioned Miss B further about who had paid her, but it didn't find her explanation satisfactory when it could see the payment hadn't come from the person she'd named.

The agent suggested she visit a branch with supporting information, as the account would remain under review and blocked.

Following a review, TSB filed a misuse of facility marker at Cifas, as it believed Miss B had been complicit in receiving fraudulent funds, noting it hadn't been given evidence to show she'd been entitled to receive the funds. It also notified her that it would be closing the account.

Miss B complained that she'd not engaged in fraudulent activity, and the marker was affecting her ability to get on with her life. TSB considered the additional information but didn't think it had made a mistake in the steps it had taken. Miss B contacted us and discussed her case with an investigator, stating:

- Back in October 2024 when all of this had happened, she'd woken up to find payments in her account that she hadn't been expecting. Randomly, she'd got a call from O who said he'd accidentally sent money to her and needed it returning. And so, not thinking anything more of this, that's what she'd done when she paid him.
- O had sent the funds via the third-party whose name appeared on her statement.
- When she spoke with the fraud team in October, there was some miscommunication with the agent. She couldn't understand him, and he couldn't understand her as there was a language barrier. However, he told her that she had 14 days to provide supporting evidence at a branch, or her account would be closed.
- Later, and after her account had been closed, she tracked O down and took him to a branch, so that he could explain she wasn't involved in any fraudulent activity. However, despite this and her complaint, the bank hadn't changed its mind.
- She hoped the marker would be removed.

One of our investigators looked at the case. She acknowledged what Miss B had said but didn't find her explanation plausible as to why the funds had ended up in her account. She referred to the bank's call with her and what she'd said in response questions and there being a lack of supporting evidence for the incoming payments. She also identified there were significant differences in what she'd told TSB in October 2024 and what she had shared with us. She felt the circumstances suggested Miss B knew more about the payments than she was willing to say and concluded TSB's evidence was robust enough to justify its actions (including closing the account).

Miss B didn't agree and asked for her case to be put forward for a 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 have enough to go ahead with a decision. I'm sorry to disappoint Miss B but I'm not going to ask TSB to do anything more.

The marker that TSB has filed is intended to record that there's been a 'misuse of facility' – relating to using the account to receive fraudulent funds. To file such a marker, it's not required to prove beyond reasonable doubt that Miss B is guilty of a fraud or financial crime, but it must show that there are grounds for more than mere suspicion or concern. The relevant guidance 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 B's account, whether they are retained or pass through the account. Secondly, the bank will need to have strong evidence to show that Miss B was deliberately dishonest in receiving payments and knew they were, or might be, illegitimate. This can include allowing someone else to use their account to receive illegitimate payments. But a marker should not be registered against someone who was unwitting; there should be enough evidence to show complicity.

To meet the standard of proof required to register a fraud marker; the bank must carry out checks of sufficient depth and retain records of these. This should include giving the account holder the opportunity to explain the activity on their account to understand their level of knowledge and intention.

So, I need to decide whether I think TSB has enough evidence to show fraudulent funds entered Miss B's account and she was complicit. And I'm satisfied that it has. I'll explain why by addressing what I consider are the salient points.

TSB has provided evidence that it received a report, saying that funds which entered Miss B's account was because of a scam. Looking at what was reported, I'm satisfied the bank was alerted to a fraud and needed to make enquiries to meet its regulatory obligations to investigate such matters.

When TSB spoke with Miss B it was clear what payments it was investigating – I've heard the call, and the questions and answers are clear. So, I'm satisfied she was given a fair opportunity to explain things. Miss B said the payments were from someone she knew, a male, 'A' and she explained why she was expecting the funds; she said this was money A owed her, and she was paying this to O as she owed him. TSB wasn't satisfied and I can understand its position given the payment wasn't from A but from a female with a different name and the payment involved a fraud report.

Miss B now says that the payment wasn't from A but was from O who had accidentally paid her, and she'd returned the funds to him. But this is so significantly different to what she said in the call with the bank when she talked about A and this being money she was expecting. She says it was a shock to find the payments in her account, and she sent the funds to O following his call. If Miss B's latter explanation was the truth, then I can't see why she couldn't have said this to TSB, unless of course, she was aware the funds weren't legitimately obtained, and I think that's more likely here than not.

My role is to look at what both sides have said and provided and decide what weight to put on the evidence. Here, Miss B's testimony isn't satisfactory and there is no sound basis for that. There are significant differences in what she's said and no tangible and persuasive evidence to support why she'd been paid directly by someone who wasn't A or O. And whilst I've considered what she's said about tracking O and going to a branch, none of this makes a difference given the strength of the other available evidence.

Overall, I'm satisfied TSB had enough information to load the marker and close the account (there's provision for this within the account agreement).

I'm sorry to hear about the difficulties Miss B has told us about and I hope she's able to get appropriate support. But I'm afraid this isn't a basis for me to tell TSB to remove the marker.

### **My final decision**

My final decision is that I don't uphold this complaint.

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

Sarita Taylor  
**Ombudsman**