

complaint

Miss N complains that Nationwide Building Society unfairly placed a CIFAS marker against her name. CIFAS is the UK's fraud alert service. Miss N wants Nationwide to remove the marker. And pay her compensation for the trouble and upset caused.

background

Miss N had several accounts with Nationwide.

Between September 2016 and January 2018, Miss N received over £250,000 in bank credits into her accounts, £30,831.71 in cash credits, made over £175,000 in Swift payments and withdrew £42,928 in cash.

In January 2018, Miss N was arrested and interviewed about her account activity. During her interview with police, Miss N explained that she was receiving money from her brother overseas, who was a director of several businesses. She said that the money was to help pay for the care of their sick father. She also said that some of the money was sent overseas to other family members to help with everyday living expenses. And she received cash payments as gifts from her brother.

Miss N also explained that she used the services of a money transfer service, which I will refer to as G, to receive money from her brother. She said she met with the owner of the money transfer service and agreed that Miss N's brother would use it as an intermediary to make payments into her account as it was more cost effective. So, Miss N's brother would make payments to G's account held overseas where her brother was located. And then G would pay this money to Miss N from its accounts held in the UK.

Miss N said if G didn't have enough money available in its accounts, it would 'sub-let' the transaction to third parties. This meant the money wouldn't always credit her account in one lump sum – sometimes it was divided up into smaller amounts. And it could be paid into her account by unknown third parties – businesses and individuals. Because of this she didn't always know who'd paid money into her accounts.

Nationwide reviewed all Miss N's accounts and found that not all the money paid into her accounts could be accounted for. They also had concerns that Miss N was being paid by multiple unknown third parties. And she didn't always send out the full amounts received. It noted in 2012, she'd received over £191,000 from a relative's business in the USA to buy plant equipment, which was then shipped to Nigeria. So, it believed she was using her personal account for business purposes.

Miss N also told Nationwide that she'd given her savings bank card and PIN to her relative to use because he couldn't obtain an account of his own due to bad credit. And that he'd had paid around £10,000 into her account. Miss N couldn't provide any information of the source of these funds. So, Nationwide recorded a CIFAS marker against Miss N based on how she was using her accounts, which it said amounted to misuse of a service.

Miss N complained to Nationwide and asked it to remove the marker. She also complained to CIFAS. She says that there was no evidence her accounts had received fraudulently funds or been used for business purposes. She also provided evidence to show that she wasn't charged following the police investigation. And says the police were satisfied with the source of funds which credited her account. Nationwide said it hadn't done anything wrong in

applying the marker. It maintained Miss N had misused her accounts. CIFAS also agreed. So, she brought her complaint to us.

One of our investigators looked at Miss N's complaint. She said she wasn't persuaded that Miss N's explanation supported her account activity. In summary she said:

- it was likely that some of the money was used for the care of Miss N's father but some of the transactions occurred before he became unwell
- the transactions were of high value
- the activity on the account far exceeded Miss N's £2,000 a month salary
- it was unclear why Miss N would allow multiple unknown third parties to credit her accounts
- Miss N can't explain all the money received and paid out of her accounts
- Miss N's accounts were more likely than not being used for business purposes
- Miss N's explanation of the police being satisfied with the origin of the funds wasn't correct – there simply wasn't enough evidence to formally charge Miss N.

Miss N disagreed. She said she wasn't charged by the police and no funds paid into her accounts were found to be fraudulent. So, she said Nationwide should remove the marker.

As no agreement could be reached the matter has come to me to decide.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I've looked at whether Nationwide was fair to apply the marker, based on the evidence it had, and the investigation it carried out. And what the rules say about applying such marker.

Miss N says most of the money paid into her accounts was received from relatives. And was used to pay for the care of her father who was unwell. If that were the case, I would expect Miss N to be able to account for every transaction in her account. However, from looking at what she told Nationwide, Miss N couldn't explain where *all* the money which passed through her accounts originated – she simply didn't know. She was also unable to provide copies of any medical bills to support her explanation for some of the account transactions.

Miss N's also told Nationwide that in 2016 she gave a relative use of her savings account because he was unable to get an account of his own due to bad credit. I can see that around £10,000 was put through this account between 2016 and 2018. Miss N accepts she shouldn't have done this and that as a result of this Nationwide weren't able to meet its legal and regulatory obligations as it didn't know who was operating the account.

It's also not in dispute that over £100,00 which came into her account was used to buy plant construction equipment, which was bought in the USA and shipped to Nigeria for use in her brother's business. So, I think Miss N was using her personal account for business purposes.

Miss N has pointed out that she wasn't charged by the police. And says the police were satisfied with the source of the funds which credited her accounts. So, she says on this basis Nationwide should remove the CIFAS marker.

Whilst I accept Miss N wasn't charged. It doesn't follow that Nationwide's concerns weren't well founded. Before placing the marker against Miss N's name, Nationwide needed to have reasonable grounds to make a referral to a law enforcement agency. Under CIFAS guidance Miss N didn't need to be charged with an offence. And having looked at how Miss N was operating her accounts I think it was reasonable for Nationwide to have concerns. So, when I weigh everything up, I think Nationwide was justified in acting in the way it did. On that basis, I think it's fair and reasonable that Nationwide reported Miss N to CIFAS for misuse of her accounts. And I'm not going to ask Nationwide to remove the marker.

My final decision

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss N to accept or reject my decision before 10 January 2020.

Sharon Kerrison
ombudsman