

complaint

Mr G complains that National Westminster Bank Plc ('NatWest') wrongly recorded a marker against his name with a fraud prevention agency, CIFAS, that indicated he'd committed fraud on his credit card account and then failed to remove it in a timely way.

Background

Mr G held a credit card account with NatWest that in early 2013 had a credit limit of several thousand pounds.

On or around 7 February 2013 Mr G carried out a money transfer from his NatWest credit card account. This, plus the money transfer fee, meant his debit balance was within a few hundred pounds of his credit limit.

On 8 February Mr G made a cheque out to reduce the balance on his NatWest credit card account. The cheque was drawn on his joint account with another bank, which I'll call Bank 1. On 14 and 15 February Mr G carried out two balance transfers to his NatWest credit card account.

On 18 February 2013 Bank 1 asked NatWest to return the funds paid by cheque. Bank 1 has subsequently said this was due to an error it made. Without that cheque payment, the balance and money transfers took Mr G's credit card account several thousand pounds over his credit limit.

Also on 18 February NatWest put a block on Mr G's credit card – this meant it couldn't be used.

NatWest's records indicate it wrote to Mr G on 25 February. On 5 March Mr G's wife, who was an additional cardholder on the NatWest credit card account, called NatWest and made a small payment of under £100. She said her husband was overseas. NatWest gave her its international number and asked her to tell Mr G to call it.

NatWest's records show further letters were sent on 7 and 27 March 2013 and that on 5 April Mr G called NatWest. The alleged Bank 1 error was noted, and proof of it requested.

On 10 April Mr G made a sizeable credit card payment that brought his balance back under his credit limit. That same day Mr G was asked to chase Bank 1 for proof of the error. And on 25 April there was a further discussion between Mr G and NatWest. NatWest told him it was still awaiting proof from Bank 1. NatWest's notes show that the block on the account was removed that day in response to Mr G indicating he would make a complaint.

On 12 March 2013 NatWest had filed an entry with CIFAS indicating that Mr G had misused his credit facility with it. The reason given was 'multiple encashment fraud'.

Throughout 2013 the minimum payment due on the credit card account was made by direct debit, gradually reducing the balance. A sizeable payment of several thousand pounds was made in late January 2014, followed by money and balance transfers in February 2014. This took the account nearly up to its credit limit again. Over 2014 the minimum payment continued to be made by direct debit. In early February 2015 Mr G cleared the balance on the credit card account. In March 2015 he made balance transfers taking his account nearly up to the credit limit. He continued to make the minimum payment by direct debit.

In November 2015, after several phone calls with Mr G, the CIFAS fraud entry was removed by NatWest.

In late 2015 Mr G complained to NatWest about the difficulties with the February 2013 payment and the CIFAS marker on his credit file. On 11 January 2016 NatWest said it had correctly notified the marker. It said it returned the cheque at Bank 1's request. It had advised that Bank 1 would have to provide proof that it was Bank 1's error. The balance and money transfers that took Mr G over his credit limit were completed after the payment by cheque but before it was returned to Bank 1. The funds would've been pending which meant he was able to use the credit for the transfers. NatWest said it could see he'd spent time on the phone in relation to this matter. It said it would credit Mr G's account with £72 for calls and £80 compensation.

Mr G wasn't happy with this so he brought his complaint to us. He said NatWest should've removed the CIFAS entry in 2013 when he provided it with a copy of a 22 April 2013 letter from Bank 1 indicating the cheque had been blocked through Bank 1's error.

It wasn't until October 2018 that our investigator issued the view that is the subject of the request for a decision from an ombudsman. The resolution of the complaint by our service had been put on hold at various times in the previous years as Mr G hasn't been in a position to provide information regarding the complaint.

Our investigator noted that Mr G was unhappy with the effect that an incorrect CIFAS marker added by NatWest had had on him. She thought the CIFAS marker probably wasn't an incorrect thing to do at the time. This was because the returned cheque made it look like the balance transfers were done against an incorrect cheque. There was a period of time for him to replace the payment made by cheque before the CIFAS marker was recorded. He didn't reduce the balance beneath the limit until 10 April 2013, although some payments were made before then. But she did think that the CIFAS marker should've been removed sooner. After the restriction on the account was removed Mr G was able to use the account as normal so this showed NatWest didn't have any concerns about the account or the way it was being used after April 2013.

She thought it was likely that the CIFAS marker had played a role in the closure of some of his accounts with other providers but she didn't have evidence this was the sole reason. Without clear evidence she couldn't hold NatWest responsible for the commercial decisions of other providers.

In conclusion, she thought that the service could've been better and NatWest should pay Mr G £300 in addition to the £152 already paid.

Mr G didn't agree with our investigator's view. He said he didn't know that the cheque payment hadn't gone through. He said NatWest would've known the cheque hadn't reduced his NatWest balance when he made the credit and money transfers. It was NatWest's responsibility to ensure that he didn't exceed his credit limit. He referred to comments in 2016 from one of our previous case handlers that the CIFAS listing had contributed to the closure of his accounts with other providers. He'd had to chase CIFAS for two years to clear his name. NatWest hadn't taken any steps to remove the marker after he'd paid the money. It was responsible for the closure of his accounts with Bank 1 and another bank that I will call Bank 2. NatWest had destroyed his credit history. He thought £300 compensation was an insult, and he wanted much higher compensation.

Our investigator thought Mr G had been informed that the cheque payment hadn't gone through before the CIFAS marker had been applied. And she said that if Mr G had provided the proof of Bank 1's error that NatWest had asked for, the CIFAS marker would've been removed sooner – NatWest had no record that Mr G had provided the letter from Bank 1 to it in 2013. So in this context she thought that total compensation of £380 plus £72 for call costs was fair.

The complaint then came to me for final decision. Mr G said he'd sent the 22 April 2013 letter from Bank 1 to NatWest in April 2013. He said the letter proved that NatWest was solely responsible for what happened to him.

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 can see that Mr G feels very strongly that NatWest's actions in relation to the CIFAS marker has badly affected his credit history and led to the closure of various accounts. I don't doubt his strength of feeling. But I'm afraid I'm going to have to disappoint him, as I won't be asking NatWest to do anything further.

the initial notification of the CIFAS marker

I think it was fair of NatWest to record the CIFAS marker in March 2013. At the time Mr G made the money and balance transfers in early to mid-February 2013 the cheque had been deposited, so it appeared Mr G had the credit limit available. When Bank 1 asked for the cheque to be returned it was reasonable for NatWest to consider whether there had been fraud in relation to the cheque and the transfers.

It didn't place the CIFAS marker until 12 March 2013; nearly a month after the cheque was returned. I understand Mr G says he was unaware the cheque had been returned. But I think NatWest did take steps to bring it to his attention, as the background to this decision sets out. Mr G may not have been aware of this, because he was overseas, but I can't hold NatWest responsible for that. So I think Mr G was given the opportunity to reduce his balance back to below the credit limit before the CIFAS marker was placed, so I can't agree that it was unfair of NatWest to notify the CIFAS marker.

the CIFAS marker continuing until late 2015

I'm satisfied that in April 2013 Mr G made NatWest aware that Bank 1 had said it had incorrectly requested the return of the cheque. NatWest reasonably asked for proof of this. Mr G has told us that he sent a copy of the 22 April 2013 from Bank 1 to NatWest. But NatWest's file shows no record that this was received.

What is clear from NatWest's file is that by May 2013 Mr G was using the account as normal. The block on the account had been lifted, and Mr G carried out several balance transfers over the next couple of years. If NatWest was still concerned that Mr G had committed fraud, this wouldn't have been possible.

The CIFAS marker wasn't removed until late 2015 at NatWest's request. Mr G says this was after two years of effort with CIFAS on his part. But unfortunately there is nothing to show he contacted NatWest about the issue after late April 2013 until around November 2015. There's also nothing to show that he followed up with NatWest to confirm the 22 April 2013

letter had been received. If he had done so, the fact that the CIFAS marker was still in place would have come to NatWest's attention.

But even without receipt of the 22 April 2013 letter, the fact that NatWest was happy to allow Mr G to carry out balance transfers throughout 2014 and 2015, means that it should've considered much sooner whether to remove the marker.

the impact of the CIFAS marker remaining in place until late 2015

Mr G believes that the CIFAS marker being in place has impacted negatively on several of his accounts with other providers. He says it's the reason his accounts with Bank 1 and Bank 2 were closed.

I can only make findings about NatWest in this decision. I'm aware Mr G has made a number of complaints to these other banks about the closure of his accounts that have been considered by our service.

I've looked at our file in relation to his accounts with Bank 1. I was already familiar with it as I issued the final decision on Mr G's complaints about the closure of his joint and sole accounts with Bank 1. In that decision I didn't agree that the CIFAS marker was the reason that Bank 1 had closed the accounts.

I've also looked at our file in relation to his account with Bank 2. I can see that in November 2015 our adjudicator provided Mr G and Bank 2 with a view on his complaint to Bank 2. But there is no record showing that Mr G or Bank 2 accepted our adjudicator's view, or asked for a decision from an ombudsman. So I'm not able to reach any conclusion as to why Mr G's account with Bank 2 was closed. And I'm not able to reconsider his complaint against Bank 2 as part of this decision as it isn't a party to this complaint. I'm sorry to disappoint Mr G.

compensation

As I've said earlier, in my opinion NatWest should've considered removing the CIFAS marker sooner. But I can't hold it solely responsible for the amount of time the marker was in place. I'm afraid I can't be satisfied that Mr G did provide the letter of proof to NatWest.

But I do think the further compensation of £300 for the trouble and upset he's suffered because of the poor service he's received from NatWest at times is reasonable. This is in addition to the £80 compensation plus £72 call costs already paid. I appreciate Mr G wants a great deal more compensation. But my role isn't to punish NatWest. The total compensation of £452 is more than a token amount. I think it is fair, although I understand Mr G will disagree. I'm sorry to disappoint him.

my final decision

My final decision is that National Westminster Bank Plc must pay Mr G £300 compensation for trouble and upset he's suffered because of the bank's poor service at times. To be clear this is in addition to the £152 compensation already paid to him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 15 August 2019.

Helen Wheatley
ombudsman