

complaint

Mr J has complained that Bank of Scotland plc (trading as Halifax) have unfairly placed a warning about him on the CIFAS (Credit Industry Fraud Avoidance System) database in relation to fraudulent activity on his current account last year.

background

In May 2017 £790 was transferred into Mr J's Halifax current account by a third party. On the same day Mr J transferred £800 from the account to a different individual's account. About a week later Halifax received information from the sender's bank that raised concerns about the first transaction being fraudulent. Halifax placed a block on Mr J's account while it investigated. Halifax then closed Mr J's current account and reported the matter to CIFAS. Mr J didn't know about the marker against his name until he tried to open another bank account and couldn't. He then complained to Halifax.

Halifax responded to Mr J's complaint in February 2018. It confirmed it had received a report from another bank that Mr J had received money that he wasn't entitled to. And so a block was placed on his account while this was investigated. When Mr J contacted the fraud team by phone he told them he didn't recognise the credit to his account, or the transfer out that was made on the same day.

Halifax said it reviewed the account activity further and could see that the transfer out was made using Mr J's online banking using the registered mobile device that was linked to his account. It said it would not overturn the findings of its fraud team. It suggested that Mr J report and pursue this matter with the police.

Mr J was unhappy with the response from Halifax and so complained to us. He said Halifax had placed an unwarranted marker on his name with CIFAS. And this means he has been unable to open bank accounts with other businesses. He said he was given the marker for transferring money to an account he didn't realise was under review for fraud and he was told he was involved in third party fraud. Mr J said he never used his account for fraudulent activity and did not gain anything from the transaction. Mr J said that he is a student and needs a bank account. And so he asked for the marker to be removed from his name.

Our investigator didn't uphold Mr J's complaint. He said Mr J had confirmed to us that a friend of a friend had made the £790 deposit into his bank account without Mr J's knowledge. And that Mr J had made the £800 transfer out. When Mr J had earlier spoken to Halifax he told them that he did not recall the transactions. Our investigator concluded that his explanation to Halifax was not plausible enough for us to say that it should remove the warning on the CIFAS database. He also said that Mr J could have taken more reasonable steps to ensure that he didn't assist in the fraudulent activity.

Mr J didn't agree with the investigator's findings and so the complaint has been passed to me for a decision.

my findings

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'm not intending to uphold Mr J's complaint.

Before I explain why, I should emphasise that while I've taken note of all of the arguments and comments made, I've limited my response to the issues I consider to be central to this complaint. I won't be drawing a conclusion about whether Mr J did or didn't use his account for fraudulent activity. What I'll be looking at is whether Halifax acted fairly when it reported the closure of the account to CIFAS.

Halifax can only record information with a fraud prevention agency, in this case CIFAS, in certain circumstances. It needs to have made reasonable checks about the information it wants to forward to CIFAS and there must be enough evidence that the matter could've been referred to the police.

In its final response letter, Halifax provided an outline of why it decided to close Mr J's account and report this matter to CIFAS. Halifax received a report from another bank saying that Mr J was not entitled to the money that had been put into his account and passed the matter to its fraud team to investigate. At this point blocks were placed on his account. Halifax asked Mr J about the money lodged to and withdrawn from his account on the relevant day and he denied all knowledge of either transaction. But when Halifax investigated further it found that Mr J's online banking and mobile phone had been used to transfer the money out. This was clearly at odds with what Mr J had said and it was at this point that Halifax reviewed this matter and closed Mr J's account and reported the closure to CIFAS.

I'm satisfied that Halifax took the time to investigate what had been reported to it and only closed Mr J's account when it became clear that there was a discrepancy between what Mr J said about the transactions and the evidence Halifax found about Mr J's mobile and online banking being used to transfer the money out of his account. And I am satisfied that the discrepancy in what was said by Mr J and what was found to be the case by Halifax is enough for Halifax to be able to report the matter to an organisation like CIFAS. Mr J has also now admitted that he was the person who made the transfer, which goes against what he originally told the bank. In the circumstances I don't think the CIFAS marker should be removed.

I understand that Mr J has referred this matter to Action Fraud so that it can investigate further. He had hoped that we would delay issuing this decision until he knew the outcome of that investigation. But it's not necessary for us to wait for the outcome. This is because I'm looking only at whether Halifax made a reasonable decision in May 2017. And this is before Mr J took the matter to Action Fraud. So the outcome of an investigation by Action Fraud now doesn't affect whether Halifax made the right decision back in 2017.

my final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 22 July 2018.

Martina Ryan
ombudsman