

complaint

Ms B complains that Bank of Scotland Plc registered a fraud prevention marker against her without due cause.

background

In December 2017 Ms B got in touch with Halifax (a division of Bank of Scotland Plc) as she had noticed transactions on her current account to a gambling website that she said she had not made or otherwise authorised. Halifax issued a new card and PIN. Shortly thereafter they wrote to her to notify her that they were closing her account with 60 days notice. Ms B complained to Halifax who maintained they were correct in declining to refund her disputed transactions.

Ms B then came to our service as she remained unhappy. Our investigator reviewed her complaint and obtained further evidence - they recommended that the complaint be upheld on the basis that they felt it was most likely the transactions were completed by a third party without Ms B's consent. Halifax accepted our investigators view of the complaint. As the unauthorised transactions are no longer in dispute, I won't repeat all the details of what happened here. But, in summary, Halifax agreed to refund the transactions and offered Ms B £100 for the distress and inconvenience caused, which she accepted.

However, shortly after she received our investigator's view of the complaint, she discovered that she had been referred to the Cifas national fraud database. Halifax confirmed that they had referred her to Cifas on the basis that at the time they had believed she had falsely disputed the transactions. When our investigator referred this matter to Halifax they accepted that it had been an oversight to leave the marker on as they had accepted our view that she most likely had not made or authorised the transactions. So they removed the Cifas marker and offered Ms B a further £200 for the distress and inconvenience caused.

Our investigator agreed that this was a fair and reasonable outcome in the circumstances, but Ms B didn't agree. She felt this figure didn't reflect the distress and inconvenience she was caused by the Cifas marker. This was because:

- The marker had remained against her name for over two and half years, and this knowledge had caused her significant distress as she felt there was a 'stain' against her name.
- The marker meant that after Halifax had closed her account, her other account was closed. She had applied for numerous other accounts which were declined due to the marker, before she managed to open a new account. This meant she was without an account for around 5 months which was likely caused by the Cifas marker.
- She felt having the Cifas marker placed against her meant that she had rights removed from her to do things like apply for a mortgage, a loan or similar.

Ms B felt that around £1,000 for every month the Cifas marker was in place would be more appropriate compensation. Our investigator reviewed her evidence and testimony and remained satisfied that £200 in total was fair and reasonable. They recognised that this had an impact on Ms B. They noted that whilst she had been without an account for 5 months, she had been able to work around this as she was paid in cash. She was able to top up her phone and energy using cash so her day to day living wasn't too severely impacted - vital services weren't interrupted. Whilst the Cifas marker could have prevented Ms B from getting a mortgage or loan, Ms B accepted that she hadn't applied for any of these in this time. But Ms B remains of the opinion she should be awarded a higher amount of

compensation in respect of the distress and inconvenience it has caused her, so it 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. Having done so, my review of the evidence has led me to the same overall conclusions as the investigator previously set out and for much the same reasons. I'll explain why.

As the disputed transactions were refunded and the Cifas marker removed, and so I haven't had to consider the disputed transactions or Cifas loading itself. What remains in dispute is what represents a fair and reasonable payment in recognition of the distress and inconvenience Ms B suffered as a result of the Cifas loading. In order to determine this, I have thoroughly reviewed Ms B's testimony across the duration of her case and carefully considered the impact the loading had on her.

Whilst the Cifas marker was originally loaded in 2017, Ms B was not fully aware of it until she contacted Cifas in 2020 who verified that she had a marker against her name. Despite this it's clear Ms B knew something was wrong as following Halifax closing her account, she had her other account closed too, and then three applications to open current accounts declined. This meant she was left without a bank account for 5 months. Thankfully as Ms B was paid her wages in cash, and paid her bills in cash, she was able to maintain her day to day life without a bank account. Though I've no doubt this would have undoubtedly caused Ms B distress and inconvenience as she been in the practice of depositing her wages into her account and utilising the account.

I've also considered what Ms B said about having the right removed to apply for a mortgage or credit. Whilst I accept the Cifas marker could have prevented her obtaining credit, Ms B didn't apply for any credit in this time. And I can't hold Halifax responsible for a hypothetical rejection of credit.

I've also considered that Ms B told us that the accounts she had been able to open had been online only accounts. Whilst I know some people prefer to be able to attend a branch, she has not said that she suffered any reduction in facilities on these accounts as opposed to the accounts that were closed or the accounts for which her applications were rejected. I understand that Ms B suffered emotional distress caused by unfairly having a marker placed against her, and I empathise with this. I hope that knowing the Cifas marker has been removed goes some way to reducing this distress, so that mark against her name no longer remains.

I am sorry as I know she will be disappointed to read this, but having considered the available evidence I am satisfied that £200 is a suitable amount to pay in reflection of the distress and inconvenience caused to Ms C with regard to the Cifas marker.

my final decision

My final decision is that Bank of Scotland PLC should pay Ms B £200 for the distress and inconvenience they caused Ms B in relation to the Cifas marker.

This amount is in addition to the refund for the disputed transactions and £100 for distress and inconvenience already paid to Ms B.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 15 January 2021.

Katherine Jones
ombudsman