

complaint

Mr H has complained about his treatment by Bank of Scotland plc ('the bank') when it said his account with the bank had received a fraudulent payment.

background

The bank wrote to Mr H in those terms in early July 2018. It said it would be closing the account (or 'withdrawing facilities') 65 days from the date of the letter. Meanwhile the account could only receive 'regular credits' like wages and benefits.

Mr H protested that the suspect payment was legitimate. Following contact with the paying bank, in part via Mr H himself, Bank of Scotland accepted after a while that the payment wasn't fraudulent. Meanwhile Mr H had decided to move his custom to another bank.

Mr H complained about how the bank had handled the whole matter. He said the unfounded allegation of fraud had had the potential of destroying his professional career. He said the bank hadn't given him enough help to clear up the mistake. He said he'd suffered huge distress and inconvenience, including defamation of character.

The bank didn't accept it had done anything wrong. It said it had had the right and responsibility to decide if the payment was fraudulent and to take the action it had taken.

Our adjudicator upheld Mr H's complaint. He concluded the bank hadn't followed its own procedures properly. He said the bank shouldn't, in the circumstances, have treated the payment as fraudulent and have decided to close the account, but it should instead have treated the payment as suspicious and investigated it, including asking Mr H to explain the transaction.

The adjudicator said, however, that the account would have been blocked for a time in any case, even if the bank had followed proper procedures.

The adjudicator didn't accept Mr H had been defamed – greater harm to Mr H had been averted because the payment wasn't in the end reported via CIFAS as fraudulent.

The adjudicator recommended the bank should pay Mr H £300 compensation for distress and inconvenience and should issue a written apology to him.

The bank accepted this recommendation. Mr H did not. He said £300 was far too little compensation. He also thought it would do little to encourage the bank to behave better in the future.

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'm sorry to disappoint Mr H but I've reached the same conclusions as the adjudicator and for similar reasons.

I wouldn't want Mr H to think I was minimising what happened to him or the worry, stress and inconvenience he suffered. I've approached his case by asking:

- What did the bank do wrong?
- What harm did this cause to Mr H which was reasonably foreseeable as likely to be caused to someone in Mr H's position?
- What is the fair compensation/redress for that harm?

What did the bank do wrong?

The bank was entitled to block Mr H's account while it investigated a suspicious payment. But it shouldn't in the circumstances have written to Mr H to say the payment was fraudulent or that it was closing his account, without more.

The bank could also have done more to facilitate Mr H's access to the non-suspect funds in the account before the question of the payment was cleared up.

As far as I can tell from the evidence, the first time Mr H became aware of CIFAS from the bank and the potential for a registration to be made about him, was in the bank's final response, which post-dated the relevant events.

On the whole, I think the bank took reasonable steps to find out from the paying bank what grounds it had for regarding the payment as fraudulent (or suspicious). As far as I can tell, the delay in this respect largely arose from the paying bank's side, not from Bank of Scotland.

In the circumstances, it doesn't seem unreasonable that the bank suggested to Mr H he should try and contact the paying bank's customer, to expedite the investigation.

What reasonably foreseeable harm was caused?

Even if Mr H wasn't aware of CIFAS, he was still led to think the bank had established a fraudulent transaction on his account, which if true could have had very serious consequences for him. This caused him a considerable amount of worry and stress.

While I think Mr H would have suffered worry and inconvenience because of the blocking of the account even if the bank had followed its procedures correctly, I conclude he would have suffered less inconvenience and concern if the bank had helped him more to gain access to the funds in the account which weren't suspect.

What is fair compensation?

The purpose of our awards of compensation isn't to punish or fine the financial business or to compensate the consumer by reference to what the consumer would charge for their own professional time. Instead we aim to compensate the consumer for the wrong they've suffered.

Mr H regards £300 as falling woefully short of what he should receive as compensation from the bank, and he is of course entitled to his opinion. However, £300 is a sizeable award in terms of what the Financial Ombudsman Service awards for distress and inconvenience. I've also borne in mind that Mr H would have suffered, as I've concluded, a measure of worry and inconvenience even if the bank had done nothing wrong.

In terms of the apology, I don't normally compel an apology to be made as it seems to me that an apology, if it's to be sincerely meant, should be freely given. However, in this case

the bank has said it's happy to make the apology that the adjudicator has recommended should be made. It's for the bank to decide who signs the apology – it will be the bank that's apologising, as is right, not any particular individual within the bank.

my final decision

I uphold Mr H's complaint and require Bank of Scotland plc to pay him £300. The bank should also issue a written apology to Mr H.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 29 February 2020.

Roger Yeomans
ombudsman