Complaint

Mr W complains National Westminster Bank Plc unfairly closed his account and held on to funds it shouldn't have. He also says NatWest shouldn't have registered a marker against him with the Credit Industry Fraud Avoidance System (CIFAs). He wants NatWest to reinstate his account, allow him access to the funds it removed from his account, and remove the marker. He thinks NatWest should compensate him for the personal and financial impact its actions have had on him.

Background

Mr W held a current account with NatWest which he opened in June 2018. He says he received wages into the account from an employer, as well as consultancy fees.

In December 2019, NatWest removed two payments from Mr W's account, for £214 and £493.98. The remitting bank had contacted them to say the payments were fraudulent. They questioned Mr W about the payments. He said they represented commission payments paid to him by his employer. He also provided evidence he said supported this.

In January 2019, NatWest registered a marker against Mr W on the national fraud database operated by CIFAs. It also decided to close his account and sent him a letter on 15 January 2019, giving him 14 days to make other banking arrangements and preventing him from using his account in the meantime.

Mr W discovered the marker through a subject access request he made directly to CIFAs. He contacted NatWest and asked them to remove the marker in addition to reinstating his account. He told them he is an upstanding person, with many years trouble free experience working in a credit related industry. He also revealed the marker was having a severe impact on his life.

NatWest refused to remove the marker, return the payments it removed, or reopen Mr W's account. It said it had acted in accordance with the terms of the account, which Mr W agreed to when it was opened. And it said it had correctly registered the CIFAs marker and acted appropriately when removing the payments and returning them to the remitter's bank.

Unhappy with this response Mr W brought his complaint to our service to consider.

An investigator at our service considered Mr W's complaint and decided not to uphold it. In summary they found:

- NatWest had correctly applied the terms of Mr W's account to close it.
- NatWest had met the standard required by CIFAs to register a marker on the national fraud database. And, although Mr W wanted to know more about the reasons behind this, NatWest were not obliged to reveal or discuss them. And neither would it be appropriate to discuss them in more detail as a result.

- NatWest had acted appropriately in relation to the payments it had removed from Mr W's account.

Mr W is very unhappy with this outcome and has asked for a final decision by an ombudsman. So, the complaint has been passed to me to decide.

Mr W submits that the CIFAs marker has impacted on the viability of the businesses he runs. He says his credit license has been revoked; he's been unable to open an account elsewhere; he's lost out on a property he was purchasing; and he's had a county court judgement issued against him. In addition to causing financial difficulties, he says the consequential impact of NatWest's actions has resulted in the well-being of his family and his relationship being damaged, and it's considerably worsened his own mental health.

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've decided not to uphold Mr W's complaint and I'll explain why.

There are three key considerations I needed to decide in order to reach an outcome I think is fair and reasonable in all the circumstances of Mr W's complaint. The first is whether NatWest were entitled to register a CIFAs marker on the national fraud database. The second is whether they were able to remove the payments from his account. And the third is whether NatWest could close his account in the manner it did. I'll address each point in turn.

The CIFAs marker

Our investigator found that NatWest were entitled to register a marker on the national fraud database operated by CIFAs. They thought the threshold to register the marker had been met in line with CIFAs' published guidelines.

I've considered very carefully what Mr W has said about the effect the marker has had on his wellbeing, relationships and the viability of his businesses. And I've no reason to doubt what he's said is true in this respect - a marker can impact on the commercial decisions made by other businesses and can have resulting financial and potentially personal consequences.

But what I need to consider in order to determine whether a CIFAs marker has been correctly registered is not the magnitude of the impact it's had on Mr W. Instead, I need to decide if NatWest met the standard required of it to register a marker in accordance with CIFAS' published guidelines. I appreciate Mr W will be very disappointed by what I have to say but considering the information I've available, I'm satisfied NatWest met that standard and acted in accordance with the guidelines. So, I won't be directing it to remove the marker. Mr W is keen to understand more about the basis and detail behind NatWest's decision to register the marker, and this is understandable considering the impact he says it has had. But NatWest aren't obligated to reveal its reasons, and so I will not be requiring it to do so.

Access to funds

NatWest has a wide variety of legal and regulatory obligations it must meet when providing accounts to its customers. These obligations are ongoing and do not only apply when an account is opened. To comply with those obligations NatWest might need to act in relation to

an account where appropriate, which may include preventing access to payments or removing funds from an account. If NatWest didn't on occasion act it could risk serious sanction.

Having considered all the evidence and information available to me, I'm satisfied NatWest acted justifiably by taking the action it did – and I understand its reasons for doing so. I also find that the terms of Mr W's account do permit NatWest to take the action it did, and they were also reasonably applied.

I understand Mr W says the funds in question weren't returned to the remitter – in this case the account of his employer. He says his employer's account had closed, so returning the funds to source wasn't possible. I've considered Mr W's interpretation of what returning funds to the remitter means. But I see NatWest only said it had returned the funds to the remitter's bank, which doesn't mean the funds were returned to the remitter itself.

I've also considered the evidence Mr W submitted to NatWest in an attempt to establish the validity of the payments. But I've needed to balance his submissions against all the information and evidence available to me. And, after doing so, I'm satisfied NatWest has acted appropriately with regard to the funds it removed - so I won't be directing those funds to be returned to Mr W.

The account closure

I understand Mr W feels very strongly that he is a customer of good repute. And this may well be the case. But NatWest can still make decisions on who it wants as a customer, including existing customers. And in general, it wouldn't be appropriate for me to interfere with NatWest's decisions in this regard as long as they represent a legitimate exercise of its commercial discretion.

NatWest should, however, ensure that it applies the terms of its accounts correctly when closing an account. And, its decisions shouldn't be based on improper reasons or purposes, such as, for example, discrimination. I see NatWest gave Mr W 14 days' notice to find alternative banking arrangements. But it also removed access to his account immediately, which in effect is similar to it closing Mr W's account with immediate effect. In these circumstances, only specific account terms apply.

The investigator detailed the applicable terms in their view on Mr W's complaint. And from Mr W's response since this time it's clear he is aware of them, so I find no reason to list them again here. But having closely examined the terms and all the evidence I've available, I'm satisfied several of the terms do reasonably apply. So, on balance I find NatWest closed Mr W's account appropriately and for a legitimate reason. And, as a result, I won't be directing NatWest to reopen the account.

My final decision

For the reasons I've revealed above, I've decided not to uphold Mr W's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 24 May 2020.

Liam King
Ombudsman