

## **complaint**

Ms M complains that Lloyds Bank PLC recorded information with CIFAS which has prevented her from being able to obtain a fee-free bank account or mortgage.

## **background**

Lloyds entered the record in August 2012 after Ms M's account was used to deposit three counterfeit cheques, at three different locations – which she says she had no knowledge of.

Lloyds also closed Ms M's account and although she did not complain about that specifically, our adjudicator considered that Lloyds had been entitled to do so. He said that whether or not Ms M had any knowledge of the cheques, as the account was being used for an illegal purpose, the bank could close it without notice.

As regards the issue of the bank recording information with CIFAS, the adjudicator noted that the proceeds of the cheques were withdrawn immediately using Ms M's debit card and by entering the personal identification number ("PIN").

Ms M contacted the bank on 23 August 2012 to say her card had been lost or stolen. She said it had been a number of days since the card had left her possession. And she explained that the delay was because she thought she'd perhaps merely misplaced the card and it would turn up. The balance on the account at the time was close to nil and Ms M wouldn't have had reason to use the card.

But Ms M couldn't provide an explanation as to how the PIN was known to someone other than her. She'd said that she'd kept a record of the PIN in her phone. But she hadn't said her phone was missing or explained how someone could have accessed her phone. It seemed unlikely to the adjudicator that someone would have been able to note Ms M's PIN on some earlier occasion in the hope they'd later be able to get hold of her card.

The adjudicator also noted the account activity prior to the cheques being deposited. In the months leading up to August 2012, Ms M managed her account well, mostly using her money over the month with the balance being taken to or near zero for a few days at the end of the month. However, in August 2012 Ms M received her normal salary on 10 August and this was mostly withdrawn in cash over the next three days.

When Ms M received a further £160 on 15 August 2012, this, together with the rest of her money, was withdrawn or spent on 20 August 2012 – the day before the first of the cheques was deposited. Ms M thought it possible she needed the cash because she went on trips or possibly loaned the money to a family member. Her birthday was also around that time. But, simply, she doesn't remember why she needed so much cash in such a short period. There was no evidence of similar activity on Ms M's account in the past and the adjudicator considered this behaviour – so near to the depositing of the counterfeit cheques – suggested Ms M may have had some forewarning the account would be used in the way it was.

On balance, taking everything into account, and what the adjudicator thought most likely to have happened given the circumstances, he didn't think Lloyds wasn't entitled to record the information it did with CIFAS.

Ms M responded to the adjudicator. In summary, she has sought to explain further about how the PIN might have become known by someone else, including that she has given her

PIN to friends and let them use her card; her difficult personal circumstances over time; and why there have been delays in her raising the issue.

But the adjudicator questioned why Ms M hadn't provided any of this information and explanations sooner and also considered that if she'd allowed access to her account in the way that she'd now described, the bank was entitled to hold her responsible for misuse of the account by way of recording information with CIFAS. In short, the adjudicator wasn't satisfied that he could say the bank had acted wrongly in recording information with CIFAS.

### **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 come to the same findings and conclusions as the adjudicator.

I can't now know with certainty what happened with Ms M's account in 2012. And where evidence is incomplete, inconclusive, or contradictory, I have to reach a decision on the balance of probabilities; that is, what I consider is most likely to have happened, given the evidence that is available and the wider surrounding circumstances.

Taking into account everything that's been said about the events that led to the CIFAS record being made, and the wider circumstances – as well as how Ms M's explanation of how she came to be a victim of fraud has evolved - I don't consider that Ms M has provided a sufficiently compelling explanation of how the counterfeit cheques came to be deposited, and their cash value removed, without her knowledge or some form of authority from her.

I therefore agree with the adjudicator in that I don't consider I can fairly and reasonably conclude that the bank has wrongly recorded information with CIFAS, or that it should remove that information.

### **my final decision**

My final decision is that I reject this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 4 July 2016.

Ray Neighbour  
**ombudsman**