

complaint

Miss J has complained The Co-operative Bank plc won't remove a fraud-related marker it placed on her record in 2018.

background

In March 2018 Miss J told the Co-op there were two transactions (for £280 and £250) made over the two preceding days which she hadn't made. Within a few days the Co-op refunded Miss J.

In a further conversation with the Co-op on 11 April, Miss J told them she'd met someone through a dating website. His daughter had been very ill and she'd felt pressured into helping out. She'd sent him money. She'd even taken out loans to get more money to give to him. Co-op tried to help her keep her money safe. They did ask whether the two payments from her account in March were related to this. She denied this.

Later that month Miss J contacted Co-op to admit she had made the two transactions herself. She'd been under a great deal of emotional strain and now regretted telling them they were fraud. The Co-op closed Miss J's account and lodged a fraud-related marker on the fraud industry database, CIFAS. Miss J believed the marker was unfair and brought her complaint to the ombudsman service.

Our investigator agreed Co-op hadn't acted unfairly in closing Miss J's account but felt they'd not taken the wider issues into consideration when considering whether to remove the CIFAS marker. She asked them to remove it. The Co-op wouldn't agree to do this. They felt they had an obligation under industry rules to lodge this marker. Miss J accepted the Co-op could close her account but still wanted the CIFAS marker removed.

Miss J's complaint has been referred to an ombudsman for 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've reached the same conclusion as our investigator and for roughly similar reasons.

Firstly all parties agree there's no real dispute what happened here. Miss J claimed back some money then admitted she'd made these payments herself. I don't see any need to go into much further detail about those transactions.

But like our investigator I think the wider context is relevant.

Miss J wasn't just a victim of a scam but was more than likely a victim of emotional and financial abuse. She took out two large loans and paid out large amounts of money to someone pretending to be her partner, and potentially pretending to have a very ill daughter. This would all have been heart-rending for Miss J. Afterwards – and she's now reported what happened to the police and disengaged herself from the person taking advantage of her – she's told us how difficult the whole period was for her. A CIFAS marker seems to me to be an inappropriate way of victimising Miss J further.

I can imagine during the time she was having contact with the person, she felt under a lot of emotional pressure and then embarrassed about what was going on. I've noted Miss J came clean herself with Co-op even after elaborating on her fraud story when she spoke to them again in April. There are a number of phone calls between the Co-op and Miss J.

So what good will a CIFAS marker do apart from marking her as a fraudster? She doesn't come over to me as a hardened criminal who'll be carrying out any more fraud in the future. I'm sure the Co-op can ensure they have internal systems sufficient to avoid them giving her an account again.

I've heard what the Co-op have told us that they'll be going against CIFAS procedures in getting the CIFAS marker removed. I don't agree because firstly I think there's enough evidence to say this marker hasn't been applied fairly in Miss J's case. CIFAS is an industry body. The Co-op will play a role in deciding policy and procedures so it's not as if they have no influence in what CIFAS does. They won't be the first bank told to remove a CIFAS marker so I'm sure there must be flexibility to remove CIFAS markers where they've been instructed to do so by the ombudsman service.

For the avoidance of doubt I'm satisfied this CIFAS marker is disproportionate as I don't believe Miss J is a fraudster.

my final decision

For the reasons I've given, my final decision is to instruct The Co-operative Bank plc to remove the fraud-related marker it has placed on Miss J's record.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss J to accept or reject my decision before 17 March 2020.

Sandra Quinn
ombudsman