

complaint

Miss S is unhappy that National Westminster Bank Plc closed her account and added a Credit Industry Fraud Avoidance System (CIFAS) marker against her name. She'd like NatWest to remove the marker.

Background

Miss S had an account with NatWest. On the 20 November 2017, a payment of £9,800 was credited into Miss S's account. On the same day NatWest received a report from another bank, I'll call H, that the funds were fraudulent.

Before NatWest could recover the funds £9,870 was spent via two bank transfers to two new payees and a £240 cash machine withdrawal. And only £10 was recovered. NatWest proceeded to close Miss S's account and recorded a CIFAS marker on her file. Miss S complained to our service that she wasn't able to open a new bank account. NatWest responded to say they hadn't done anything wrong in closing her account and adding the marker.

One of our investigators looked into Miss S's complaint. Miss S initially explained to our service that she hadn't given her security details to anyone else so couldn't understand how the transfers had been made. But on receiving our investigator's opinion, which said that there wasn't an explanation for how the transactions could have been carried out without Miss S's knowledge, Miss S explained that she had in fact handed her card and other security details – excluding her card reader – to an acquaintance I'll call A. Miss S explained that A said he was due to receive a payment but had 'account issues', and asked to use hers instead – which she agreed to. Miss S maintains that she didn't have any knowledge that fraudulent activity was taking place.

Miss S explained that as she had two cards linked to the account, she was able to continue to use one and didn't notice any problems with the account. She also explained that she thought that you could only make large transactions or new ones using the card reader – which she hadn't handed to A – so thought it would only be possible for A to use these services with her approval. And she also didn't have access to online banking at the time because her smart phone was broken.

Our investigator asked Miss S if she could provide anything to support this version of events – including any contact with A, but Miss S was unable to do so. She explained she'd phoned A after discovering the fraud and all other messages were sent via a social media platform which she now doesn't have access to.

Our investigator reviewed Miss S's complaint – and the new evidence provided – but they didn't uphold her complaint. Having looked at the circumstances of the events, and the way in which the fraudulent payments were used she thought that NatWest had sufficient evidence to load the CIFAS marker.

Miss S didn't agree with the investigator's opinion and asked for her complaint to be passed to an ombudsman for a 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. And in doing so I've come to the same conclusion as the investigator for broadly the same reasons. I'll explain why below.

NatWest explained it applied the CIFAS marker because bank H said their customer didn't authorise the payment made to Miss S's account. So I've looked at whether NatWest was fair to apply the marker, based on the evidence it had and the investigation it carried out and what the rules say about applying such markers.

CIFAS guidance says the business must have carried out checks of sufficient depth to meet the burden of proof set by CIFAS, which at that time was that NatWest needed to have enough information to make a formal complaint to the police or other relevant law enforcement agency. And that any filing should be for confirmed cases of fraud, rather than mere suspicion. In addition, CIFAS guidance sets out businesses are expected to retain the evidence they rely upon when applying a CIFAS marker for at least six years.

I've reviewed Miss S's account of events and the evidence NatWest have provided. And in doing so I'm satisfied that NatWest have sufficient evidence for the CIFAS marker to be recorded on her file. In coming to this view I've taken into account the following reasons:

- NatWest have provided evidence to show the inward payment received on the 20 November 2017 was fraudulent.
- Miss S confirmed on a number of occasions to our investigator that she didn't give her details to anyone – and had no idea how the new payees were set up or the transfers made. Although I understand that Miss S may have been concerned about sharing her account of events with our investigator, I find it surprising that Miss S didn't inform our investigator that she'd shared her security details with A sooner.
- Miss S has explained that she gave all of her security details to A – who she believed to be a friend – as A had 'account issues' and needed to receive a payment. But, despite Miss S being given the opportunity she's been unable to provide any supporting evidence – including any details or communication with A.
- Miss S says that she didn't think A would be able to make large transactions or *new* ones from her account without the card reader. But, it's unclear why – if her account was receiving payments from A's family – Miss S also gave A access to her online banking, which was required to set up the new payees and the three bank transfers.
- Miss S says that at the time of the fraudulent transfer she didn't have access to online banking as her smartphone broke on moving to university. But, on looking at the online audit supplied by NatWest I can see online log ins on at least seventeen separate days in October and November prior to the fraudulent transfer entering Miss S's account. I find it strange that Miss S says she didn't have access to her online banking during this period and yet there are a high number of log ins.

I realise this will likely be disappointing to Miss S but taking everything into account I find that NatWest have met the burden of proof required by CIFAS to add the marker. So I'm not going to ask them to remove the CIFAS marker.

my final decision

My final decision is I don't uphold Miss S's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 11 April 2020.

Jeff Burch
ombudsman