

Complaint

Miss C complains that following a report of fraud on her account The Co-operative Bank Plc didn't provide her with correct information which caused her to run up an overdraft of £899.03 and incur bank charges. She would like the debt written off.

Background

Miss C had a current account with the Co-op bank.

She noticed that her account had been used for fraudulent online gambling transactions totalling £460.00. She reported this to Co-op on 3 January 2019.

Co-op agreed to investigate and cancelled her card and issued her with a new card and PIN. They credited her with £460.00 and froze any other transactions so they wouldn't debit the account pending the investigation. Following an investigation, the bank found that the disputed transactions were unauthorised.

Miss C was not informed that any genuine card payments would also not debit the account during the period of the bank's investigation. Miss C's children nursery payment for £840 which she made on 2 January 2019 didn't debit her account until 21 January 2019 This meant she thought she had more money in the account than was the case. When the account was unfrozen following the investigation, she realised she was overdrawn by £840. When her salary was credited it went towards the overdraft and she was left without any money to pay for essentials

Miss C said that the payment meant she wasn't able to pay her bills or look after her children.

The bank investigated and accepted that they should have told Miss C that all transactions on the account would be frozen. They offered Miss C £50 in compensation for their error. She accepted this amount. The bank agreed to give her a temporary overdraft with a payment plan in place to pay back the overdraft and advised her to open a new account. Due to non-payments the account defaulted, and the debt was sold to a third party.

On reflection Miss C was not happy with the resolution offered by Co-op bank so she asked them to look at the complaint again asking them to cancel the overdraft. The bank said that the level of compensation was fair and reasonable, and they wouldn't be changing their decision.

Miss C complained to our service she said that the bank had admitted they got it wrong and so they should cover the cost of her overdraft. She said the situation had been very stressful financially, physically and emotionally. One of our investigators looked into her complaint. She didn't think Co-op bank should cancel the debt even though they had made an error because Miss C had spent the money. She thought Miss C on checking her account, must have realised she had more money in the account than she expected. She thought the way the account had been used after the fraud had increased the debt. She felt the compensation offered was not sufficient for the impact on Miss C and asked the bank to increase the offer of compensation to £150 and to refund any interest and charges incurred reducing the debt back to £840. The bank agreed with this and our investigator issued her view on that basis.

Miss C didn't agree with the view. She said it was the bank's responsibility to advise her on what would be happening, and they made an error. She said that all she did was make a payment for her childcare. She was unhappy with the proposed payment of £150 compensation for distress. And she still wanted the overdraft written off.

As there was no agreement the matter has come to me to decide.

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 have reached the same conclusion as the Investigator for broadly the same reasons. And I'll explain why below.

Miss C was the victim of fraud. The complaint is not about the way the bank dealt with the fraud so I will not be looking at any aspects of the fraud.

Cancelling the debt

Miss C has asked that the bank cancel her debt for £840. The bank have accepted that they made an error in not letting Miss C know that all payments out of her account would be frozen pending the fraud investigation.

I have listened to calls with our investigator. Miss C told us that she didn't check that the payment made on 2 January for £840 had gone out of the account. She said that she wouldn't have made the extra payment to the nursery of £700 if the bank had explained the process properly.

I appreciate that the bank could have done more to explain the situation to her and what would happen with her payments. The bank have accepted they made an error. I will look at the impact the error had on Miss C below.

First, I have gone on to consider whether Miss C suffered a financial loss as a result of the error made by the bank and if so, what is that loss.

I have looked at Miss C's statements, from these I can see that she doesn't normally have high balances in her account and that when she has payments coming in, for example her wages or her DWP benefit, she takes the opportunity to pay towards her childcare costs.

Miss C has told us that she pays for her childcare in chunks as she can't afford to pay it all in one go. Miss C has also said that she was in arrears with her childcare.

Miss C noticed that she had enough money in her account to make a payment to the nursery and on the 8 January, she made a payment of £700 to cover childcare costs. Unbeknown to her she didn't in fact have sufficient funds in her account to make this payment and once her account was reactivated and the £840 payment to the nursery made on the 2 January went through, Miss C was overdrawn by that amount.

On reviewing the evidence, I am satisfied that Miss C didn't suffer a financial loss. I say this because the money that she owed to the nursery was reduced because of the payment she made. However, I accept she now owed this money to the bank instead. I appreciate that Miss C may feel that she would never have taken an overdraft for that amount. However, I

note that Miss C has other debt including the debt to the nursery which is now reduced as a result of this payment.

I accept that a debt with the bank carries interest and charges when a debt with a nursery does not. The bank has offered to cancel the interest and charges on the overdraft account reducing the amount Miss C owes back to £840. I think this is fair and reasonable and ensures that Miss C isn't losing out by paying extra for the overdraft she ended up with because things were not explained to her properly by the bank.

The overdraft facility

Miss C contacted the bank on 24 January 2019 when she realised that her wages had been swallowed up by her payment to the nursery and a couple of additional payments that went through. She was understandably distressed and worried as she explained she would have no money for food for her children.

In situations of financial difficulties, the lending code imposes an obligation on the lender to behave sympathetically and positively and to do what it can to help the consumer deal with their debt. It is important that both parties communicate about the financial difficulties. The key conversation took place in January 2019 and having listened to the call, I can understand why the conversation was difficult for Miss C given the circumstances surrounding the call. I think the person who spoke to Miss C who I will refer to as H, was sympathetic and tried to help Miss C. She went through an income and expenditure form with her. However, Miss C didn't have all the information available to hand, in particular she didn't have information about her other debts.

I note that the Co-op did arrange for an overdraft of £840 so Miss C would have some money to buy food and cover her normal living expenses that month. H was very clear that the overdraft was for a month. H advised Miss C to either call back when she had details of all her debts and finish the form or go to a debt relief charity for help. She told Miss C to call back with the debt relief charity reference number. I think it would have been helpful if H had said what might happen if they didn't hear back from Miss C.

Miss C never called back or paid anything towards the overdraft. I accept that Miss C should have called back to finish the form or give a reference and that this might have made a difference as to how the overdraft was dealt with by Co-op. I appreciate that she was in financial difficulties, but I can't hold Co-op responsible for her not calling back with the information from the debt relief charity.

The bank sent a final notice to Miss C on 5 June requesting the payment of the overdraft.

I think given the circumstances the bank behaved fairly in offering the overdraft facility for a month and giving advice to contact the debt charity.

However, I think the bank knew that Miss C was in financial difficulties and had more debt because she had mentioned it to H in the phone call. Because of this I don't think Co-op were fair in adding interest to the overdraft payments. Following the involvement of our investigator the bank have agreed to refund the interest and charges and have reduced the debt to the original £840.

The impact of the error

The bank accepted they made a mistake. That mistake caused Miss C to be overdrawn on her account. The investigator's view is that Co-op should pay £150 in compensation for the distress caused to Miss C because of being overdrawn. I think this is a fair and reasonable offer.

In deciding this I have taken into account that the money went into paying for the nursery arrears and the bank went through an income and expenditure exercise with Miss C and offered her a temporary overdraft to cover her situation. I have taken into consideration that Miss C was very distressed when she realised she had no money to look after her children. I have also taken into account that Miss C didn't call the bank back.

Summary

In summary, Miss C says that because the bank didn't tell her that the payments out would be frozen, they should cover the costs of the debt, but I disagree. Miss C has had the benefit of that money. She has used it to pay for her childcare which means her arrears of childcare have reduced. Miss C will be disappointed with my decision, because I won't be asking the bank to cancel her debt.

As I have said I think the Co-op bank shouldn't have added interest to Miss C's overdraft. However, I am satisfied that the addition of interest hasn't prevented Miss C from paying back the debt. The bank have agreed to cancel the interest and charges on the overdraft. So, although I would have expected the bank not to charge any interest from the outset as it was their error and they were aware that Miss C was in financial difficulty, I won't be asking Co-op bank to do anything more.

I consider the £150 compensation to be fair and reasonable in the circumstances for the reasons I have mentioned above.

My final decision

My final decision is that I uphold the complaint. I direct Cooperative Bank Plc to:

- pay Miss C £150 in compensation minus what's already been paid.
- Cancel any charges and interest that have been added to the overdraft.
- Agree a realistic payment plan with Miss C to ensure the overdraft is cleared.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 2 November 2020.

Esperanza Fuentes
ombudsman