

complaint

Mr D complained because TSB Bank plc recorded a CIFAS marker against his name. He said it wasn't fair, and he also complained that he hadn't been told about it or exactly why TSB had applied it.

background

An account in Mr D's name was opened with TSB on 22 February 2017. A number of transactions went through the account. On 14 March 2017 TSB wrote to Mr D. The letter said *"We need to make sure that our accounts are being managed as well as we would expect and are not a potential risk to our business. A recent risk assessment on your account has highlighted concerns, and as a result we have taken the decision to close your account with immediate effect."*

In autumn 2018, Mr D contacted TSB. He said another bank had told him that TSB had put a marker against him. Mr D wanted this removed because he said he'd never had an account with TSB. Mr D said it had all come about after he'd recently tried to open a business account online with TSB.

TSB replied that it was confident the 2017 account had belonged to Mr D because the details matched his personal details to a high degree. It said it hadn't been offering online opening of business accounts for some months, so it was unsure how Mr D could have started an online business account application. And TSB said that it had exercised its right to end the relationship on the account Mr D opened in February 2017 account on 14 March 2017. TSB said it had done nothing wrong in the action it took or the way in which it did so.

Mr D wasn't satisfied and complained to this service.

Mr D told the investigator that he'd tried to open a business account with another bank, but this was rejected. He said that bank had told him that TSB had applied a CIFAS marker against his name, but he didn't understand what he'd done wrong for TSB to apply this marker.

CIFAS is a member based fraud prevention agency. It has a large database which records information to protect financial businesses and their customers against fraud.

Mr D told the investigator that his step-brother had previously used his details to apply for something, but he was no longer in contact with him. Mr D said he'd never received a card or PIN for the disputed 2017 account.

The investigator spoke to Mr D again during her investigation. There were betting transactions on the disputed account, and she'd contacted the betting firm. They'd shown that Mr D's betting profile had been linked to the disputed account. Mr D then said he didn't remember opening the TSB account, but accepted that he must have done.

But Mr D said he didn't understand how the activity on the account could have been fraudulent. He said his complaint was now that he didn't think the CIFAS marker was fair. He was unhappy that he hadn't been told about it, and exactly why TSB had applied it.

The investigator didn't uphold Mr D's complaint. She explained that the bar for recording a CIFAS marker is high. The bank must have a good reason to believe it could have suffered a

loss, and / or it reasonably believes it has grounds to press criminal charges as a result of the activity on the account. This has to be more than just a suspicion or concern.

The investigator also considered the transactions on the disputed account. She considered the evidence showed it was Mr D who carried out the transactions. She believed TSB had acted fairly in line with the account terms and conditions when it had closed Mr D's account immediately. And she considered the CIFAS marker should stay.

Mr D wasn't satisfied. He said his main point was why the CIFAS marker had been put on him in 2017. He said these markers can only be added if the company has evidence to bring forward criminal charges. TSB hadn't informed him about the marker. As a result of the CIFAS marker, Mr D wouldn't be able to open any bank accounts for 6 years, and his existing accounts had been closed. Several other banks had closed his accounts as well, even though TSB had said it hadn't told other banks what it had done.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

During the investigation, Mr D accepted that he must have opened the TSB current account in 2017. So I don't need to consider that in detail. But for completeness, I'd add that I consider that the evidence points to the fact that it was Mr D who opened it and carried out the transactions.

Mr D says his main point is why the CIFAS marker was put on him in 2017.

CIFAS is a membership organisation and among other activities it runs a National Fraud Database. Members can record information about their customers on the database, and view the information recorded by other businesses.

CIFAS operates with set principles which member organisations must adopt. And the test for whether or not an organisation can enter a CIFAS marker is high. The CIFAS website sets out that the standard of proof includes:

- Reasonable grounds to believe that a fraud or financial crime has been committed or attempted;
- The evidence must be clear, relevant and rigorous, such that the member could confidently report the person's conduct to the police;
- The conduct must meet the criteria for one of the case types (the category of marker);
- The organisation must have rejected, withdrawn or terminated a product on the basis of fraud.

I have looked carefully at the confidential information which TSB supplied in response to our requests for information. Having done so, I consider that TSB was justified in placing the CIFAS marker against Mr D's name. I do not consider it would be right for me to disclose the full reasons. The category under which it was registered will remain for six years.

Mr D said that he believes TSB told other organisations what it had done. But all CIFAS markers are shared with other member organisations – that's what the CIFAS membership

organisation is all about. So if the other organisations which closed Mr D's accounts were also members of CIFAS, that's probably how they identified the fraud marker.

Organisations which are members of CIFAS don't have to notify customers if they record information about them on the CIFAS. So TSB didn't have to write to Mr D, as he believes, to tell him it had recorded a CIFAS marker against his name.

I realise that Mr D thinks that TSB should have told him that it had recorded information with CIFAS about him. But, as I've explained – there's no obligation on TSB to have done that here. I've found that TSB was reasonable in recording the information it has here. But I also have to have regard for the purpose of recording information like this. Given this, I can't see that it would be right for this service to share, or tell TSB to share, this information with Mr D.

my final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 9 April 2020

Belinda Knight
ombudsman