

Complaint

Mr A complains that National Westminster Bank Plc recorded a CIFAS marker against his name. CIFAS is the UK's fraud alert service.

Background

Mr A had an account with NatWest for a number of years. In April 2019, a cheque for £24,500 was paid into it. NatWest contacted Mr A as this was an unusual transaction for his account. Mr A said the money was from a friend.

But NatWest then received a report from the drawer's bank that the cheque was counterfeit. It contacted Mr A again. This time he said the money wasn't from a friend, but from a loan company for him to buy a car. His debit card was used to pay the cheque in, but Mr A denied that it was him who did this.

NatWest closed his account and placed a CIFAS marker against his name.

When Mr A couldn't open another account with another bank because of the CIFAS marker, he asked NatWest to remove it. He said he was fully responsible for his actions, understood the severity of the earlier incident with the cheque, and regretted it. But NatWest wouldn't remove the marker, so Mr A referred his complaint to us.

During our investigation, he told us that he was temporarily experiencing financial difficulties while he was waiting for his next student loan sum to be received. When a fellow student offered to lend him £200, Mr A handed him his debit card and PIN so that the money could be paid in to his account.

Our investigator concluded that the marker should be removed. He thought that Mr A had played a role in what had happened with the fraudulent cheque, but that he'd been a victim of fraud himself. He didn't think there was enough evidence to meet CIFAS's high standards for logging a marker.

NatWest didn't agree. It said, in summary, that:

- Mr A has changed his story several times. He created a new story when he referred his complaint to this service.
- He acted with gross negligence when he gave his card and PIN to a third party.
- Mr A has admitted that he was complicit in the fraud and acknowledges the severity of what he's done.
- The cheque was paid in some distance away from where Mr A lives and where he studies. But this doesn't mean it wasn't him who paid it in.

My findings

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

The cheque paid into Mr A's account was fraudulent. But before placing the CIFAS marker against Mr A's name, NatWest needed to have a reasonable belief that criminal charges could be brought against him as a result of the activity. A suspicion or concern isn't enough. So I need to decide if there's enough evidence to show that Mr A knew about the cheque and was involved in this fraud.

I don't think Mr A did know about the fraud and that he is one of the victims here. Let me explain why.

Mr A told us that when he told an acquaintance at university he was struggling to make ends meet whilst he was waiting for his next tranche of his student loan, they offered to lend him £200. He says that, in order credit his account, the acquaintance asked for Mr A's debit card and PIN.

Mr A recognises now that he shouldn't have handed his card over. But at the time he was young and, although he'd recently withdrawn £250 in cash, he had less than £10 in his account with his student loan payment not due for another month. I think it's plausible that he was worried about how he would make ends meet for the next month. And that, when an acquaintance offered him a loan of £200, he wouldn't have asked many questions.

I think it's probably likely that Mr A knew more than he's told us. But I think it's unlikely he knew the full extent of what was going on. I think it's also likely he was persuaded to allow a third party – either his acquaintance or someone they passed the card to – to use his account to move funds. And that he didn't realise this would amount to fraudulent activity.

I don't think there's enough evidence to show that Mr A paid the cheque into his account himself. The cheque was paid in through an ATM using Mr A's genuine card and PIN. Mr A says he didn't pay it in – and that he'd handed his debit card to someone else. I think his testimony is plausible. The bank obtained CCTV footage of the ATM, but wasn't able to view it. So it can't say for certain that Mr A knew about the cheque.

He's told us that when he realised what had happened, his acquaintance told him to say the money was from a loan company. He was clearly confused and didn't know what he should do. Unfortunately he didn't tell the bank what had actually happened.

As noted by our investigator, CIFAS's standards for recording a marker are very high. And, whilst NatWest was right to be suspicious of Mr A's involvement, I don't think it had enough information to place a marker against him. So I think it should be removed.

I've considered whether Mr A should be paid any compensation for the distress and inconvenience this has caused. But bearing in mind he has to shoulder some of the blame here – he handed his card and PIN to a third party – I don't make any award.

My final decision

My final decision is that National Westminster Bank Plc should remove the CIFAS marker against Mr A.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 12 January 2020.

Elizabeth Dawes
ombudsman