

The complaint

Miss K complains that The Co-operative Bank Plc (Co-op Bank) has discriminated against her. And that it acted unreasonably in not allowing her to benefit from a switching account bonus payment or to apply online for an account.

What happened

Miss K has refugee status. As part of that her host, Mr B, applied to open an account for her under the Co-op Bank's "refer a friend" scheme. This provided for a £125 payment to both the referrer and the applicant for an account. However Mr B found that the application form did not allow him to enter foreign addresses and in order to open her account Miss K would have been required to attend an appointment at a local branch. He was subsequently informed that Miss K would have been only able to open a basic "Cashminder" account which would not have been an eligible account for a payment under the scheme.

Miss K complained of indirect discrimination because of her status. She says that she was unable to attend an appointment in time to set up her account under the scheme and that other banks allow such applications to be made online. Mr B says that it was unfair to exclude Miss K and him from the scheme because of the type of account she was eligible for.

Co-op Bank said it has to ensure that it is complying with Anti Money Laundering (AML) regulations. As part of this it usually needs to be able to review both the applicant's credit file as well as the CIFAS (Credit Industry Fraud Avoidance System) register, and as it is a UK only bank it needs to see three years UK address history. It is fully aware that for refugees this is not possible. So it has a special process to enable refugees to open accounts without the need to provide the usual address history. Full details of this process are provided on its website, and this information was available to Mr B at the time he attempted to make an online application for an account on Miss K's behalf. She would need to visit its branch with proof of ID and address. It says the process has been put into place to ensure that refugees are not discriminated against and can have access to a UK bank account.

As Co-Op Bank's unable to check the applicant's credit file, it says it is also (temporarily) unable to offer any credit facilities so can only initially offer a Cashminder Account. This information is also available on its website.

From February 2023 Co-op Bank introduced a new refer a friend Scheme and now customers who held a Cashminder Account would receive the incentive payment of £125 but only when they recommend a friend who opens a qualifying account with it. Again the Cashminder account wouldn't be a qualifying account to open. It does not agree that it was in breach of the Equality Act 2010.

On referral to the Financial Ombudsman Service, our Investigator said that although she had taken into account the Equality Act 2010, she did not feel that Co-op Bank had behaved unfairly or unreasonably.

Mr B, on behalf of Miss K, did not agree. The matter has been referred to me for an Ombudsman's consideration.

What I've decided – and why

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

I should emphasise first of all that I'm considering here Miss K's complaint. In so far as Mr B raises a complaint about his own involvement in the process, that is a matter which would have to be considered separately.

It's not my role to say whether a business has acted unlawfully or not – that's a matter for the Courts. My role is to decide what's fair and reasonable in all the circumstances. In order to decide that, however, I have to take a number of things into account including relevant law and what I consider to have been good industry practice at the time. So although it's for the Courts to say whether or not Co-op Bank has breached the Equality Act 2010 (EA), I'm required to take the EA into account, if it's relevant, amongst other things when deciding what is fair and reasonable in the circumstances of the complaint.

I will look separately at each issue which Mr B says is either discriminatory or unfair or unreasonable.

not allowing customers in Miss K's position to open an account online

Co-op Bank says that for refugees, although it is fully prepared to offer a bank account, it has taken the business decision that such accounts can only be opened in branch. This is to enable the presence of interpreters, viewing of ID and proof of address documents and to assist the person opening the account with any problems they may have. I'm aware that other banks do have an online process to open such an account. But I think that Co-op Bank made a reasonable and legitimate commercial decision that it was going to operate that accounts opening procedure. There was of course nothing stopping Miss K, if it was inconvenient for her to attend the branch, from applying online to another bank (if it offered that process).

Mr B says that Co-op Bank should revise its processes and allow such applications to be made online and for the applicants' foreign address to be entered on the application form. We do not regulate businesses, that is the function of the Financial Conduct Authority (FCA). So I can't interfere with Co-op Bank's internal processes and business decisions.

only allowing a basic account to be opened and/ or not including such accounts in the eligibility criteria for the refer a friend scheme

Firstly all major banks offering an account to refugees will only offer a basic bank account - which is the same for all people with either a bad credit history or one that can't be verified. I don't think this is unfair. The government's website, when giving details about refugee status, sets out that at first only a basic account would be available. The disadvantage of such an account would be that it would not usually (at first) offer an overdraft facility and may not offer perks or rewards. But again I don't think this is unfair, especially as a customer with such an account would have the opportunity to improve their credit position and may later become eligible for an account with better facilities.

I've noted that the Cashminder account is not eligible under the refer a friend scheme. But again that applies to anyone who is only eligible for the basic account for whatever reason. Co-op Bank has made a commercial decision only to accept certain accounts under its refer

a friend scheme. Since essentially the holders of such accounts are likely to be more of a credit risk than of other accounts I can't say that it would be reasonable to expect Co-op Bank to include such accounts in the scheme.

On the question of holders of the Cashminder account not being eligible for rewards for holding the account, I understand that since February 2023 holders of a Cashminder account were able to refer a friend and benefit from the reward. This was so long as the friend opened an eligible account.

So I don't think it was unfair of Co-op to offer Miss K only the Cashminder account nor was it unfair of it to have excluded that account from the refer a friend scheme.

indirect discrimination

Miss K refers to indirect discrimination in respect of the above matters. As I've said, that would be a matter for the courts to decide. But in the context of the fair and reasonable remit of this decision, the EA provides that a provision, criterion or practice is discriminatory if the business can't show it to be a proportionate means of achieving a legitimate aim. As I've said above I think that the commercial decisions Co-op Bank made were both reasonable and legitimate in respect of its procedures for opening its Cashminder account and in providing rewards in the course of holding such an account.

Overall I think that Co-op Bank acted fairly and reasonably towards Miss K in respect of her proposing to open and hold an account with it.

My final decision

I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 8 February 2024.

Ray Lawley
Ombudsman