

The complaint

Mr G is unhappy Starling Bank Limited registered a CIFAS against him after fraud was committed on his account that he says he wasn't aware of. He says this is preventing him opening a bank account, so he wants the marker removed.

What happened

Mr G says he was approached by a good friend about a way he could make some easy money through someone his friend knew. He was told to open an account with Starling and use it as normal. Money was then deposited into the account and he was asked to transfer this onto his main account with another bank, which he did.

Mr G's mum has told us he was then driven to a bank in a random town, where he withdrew the money from his other account and handed it over to the third party. He also withdrew £300 from the Starling account at an ATM and handed this to the third party too. In the end, he says he didn't receive a cut of the money.

Starling had concerns over the activity on the account, so took steps to close it immediately and register a CIFAS against him.

Mr G has admitted he made a mistake in following the instructions given to him, but he trusted his friend and didn't think he was taking part in anything illegal. He says he had concerns at one point and googled "ways to make quick money" but because nothing illegal was mentioned, and as he trusted his friend, he was convinced to proceed.

Starling maintains the CIFAS marker has been recorded correctly due to the activity on Mr G's account and his involvement in this. It therefore told Mr G it wouldn't remove it.

Mr G brought his complaint to our service. Our investigator didn't uphold Mr G's complaint. She concluded that although Starling hadn't done a thorough investigation at the time, it was entitled to record the CIFAS marker given the circumstances of what happened. She also concluded it had closed his account correctly, in line with the terms and conditions.

Mrs G, on behalf of Mr G, disagreed with our investigator's opinion explaining that her son is a good boy and made a mistake, regretting everything that happened. She says his health is now suffering and he deserves another chance so he can move on with his life. She also pointed out that mistakes were made on both sides as Starling didn't do its checks properly at the time.

Our investigator explained that she agreed Starling didn't do the required checks at the time it registered the CIFAS marker. However, following her investigation she was satisfied that had it done proper checks, the outcome would've been the same.

Because Mr G disagreed with the outcome, the complaint has now been passed to me to decide.

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.

Having done so, my review of the evidence has led me to the same overall conclusions as the investigator previously set out and for much the same reasons.

CIFAS loading

It's clear from what I've seen that Starling didn't conduct a thorough investigation before loading the CIFAS marker against Mr G. It didn't ask him for any explanation around the deposits into his account before doing so. This is an error on its part. Given the implications on an individual for having a CIFAS marker against their name, Starling has a duty to carry out sufficient checks and keep a record of these for the duration of the loading. However, this error doesn't automatically mean the CIFAS should be removed.

The point I have to decide in this complaint is, despite Starling's failing at the time, did it make a mistake in filing a marker against Mr G on the CIFAS database.

The bar for recording a CIFAS marker is a high one. The bank must have a good reason to believe it could've 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 should be more than just a suspicion or concern.

So here, I need to be satisfied Starling could've made a formal complaint to the police or other law enforcement agency on the basis that there were reasonable grounds to believe fraud or a financial crime had been committed or attempted. The evidence of that also needs to be clear, relevant and rigorous.

I should be clear that Starling isn't required to demonstrate, for instance, beyond any level of doubt, that Mr G has committed fraud or any other financial crime. And I'm only coming to a decision as to whether it's fair and reasonable for the bank to have reasonable grounds to believe that to be so.

Having reviewed the necessary information Starling has provided and the explanation Mr G has provided, I believe the CIFAS marker has been filed correctly and I won't be asking it to remove it.

I understand Mr G says he trusted his friend and so believed everything was above board. However, he clearly appreciated there was a risk to the actions he was taking. He's admitted he had concerns and so did some research on the internet. He also went ahead and withdrew the money from the account despite not knowing where it had come from and how exactly it was a way to make quick money.

I appreciate the impact this is having on Mr G and his admission that this was just a silly mistake on his part, but I'm afraid that doesn't mean I can conclude the CIFAS has been loaded incorrectly.

Account closure

Starling has the discretion to offer accounts to who it wishes, just as Mr G can choose who to bank with. When closing an account though it must do so in line with the terms and conditions. I can see the terms of Mr G's account allow for immediate closure, so I'm satisfied Starling hasn't made an error here.

My final decision

My final decision is that I don't uphold Mr G's complaint against Starling Bank Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 17July2020.

Sarah Brimacombe
Ombudsman