

The complaint

Miss Y complains that Barclays Bank UK PLC has registered a marker at CIFAS, the national fraud database, which is affecting her ability to open an account elsewhere.

What happened

Miss Y received funds of £3,600 into her Barclays account on 27 June 2017. She accepts she withdrew £2,000 of that money in cash and made payments using her bank card. She went abroad and when she came back found that Barclays had decided to close her account. It had received notification from the bank of the person sending the money that the payments were fraudulently obtained. And Barclays returned what was left of that money to that person which was by then £1,462.38.

Miss Y raised a complaint about the account closure and on 17 November 2017 Barclays issued a final response about this and also referred to Miss Y wanting to *“have access to the funds in her account before it was closed”*. Miss Y referred that complaint to this service but not within our time limits. And one of our investigators told her in September 2018 that we couldn't look into it as a result.

Since then Miss Y has raised a complaint about the CIFAS marked applied at the time her account was closed. She believes that this has stopped her getting a bank account or credit elsewhere. She told Barclays that the money paid in was the repayment of a loan a friend owed her but that she didn't recognise the name of the person paying the money. She was going abroad to deal with a number of issues and took the money out in cash to change into foreign currency. She told it she had been trying to deal with her complaint for some time and hadn't been able to get a response. She referred this issue to us in July 2019 and Barclays sent her a final response on 3 March 2020. It offered to pay her £150 to reflect the time taken to look into things but didn't uphold her complaint.

Our investigator said he could only look at the new issue about the CIFAS marker. He didn't recommend that her complaint about it be upheld. Miss Y hadn't been able to provide any evidence to support what she said about the loan she had given to a friend or what it was for. She had said that her friend had arranged for someone else to pay her back as the friend wasn't local to her. But there was nothing to support that and no evidence of transactions on her account to show her lending this amount of money. He thought it unusual that she'd decided to buy foreign currency in cash as she could have made a payment by card. And when Barclays had removed over £1,400 of the money, he couldn't understand why she'd not pursued that any further. He said that adding a CIFAS marker was a serious matter. But that Barclays had sufficient evidence to show the money received wasn't rightfully for Miss Y and that she'd not given any explanation about this at the time.

Miss Y didn't agree. She said that it had taken so long to look into her complaint and this fraud marker still remained. She was unhappy to be thought 'guilty' given the lack of evidence. In 2016 she had over £9,000 in a savings account. It wasn't wrong to carry cash and she believed she could get a better rate of exchange if she paid that way. Miss Y added that her spending on the account was before her trip abroad. And just because she can't provide evidence about the money doesn't mean she is lying. She said she did challenge

Barclays about this. She had to have her salary paid into her Mum's account for some time which was inconvenient, and she can't get any credit.

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 understand the frustration of Miss Y about the time this marker has been in place and the impact she believes it has had on her. I'm going to be reviewing all the evidence about that and considering whether the report to CIFAS was made fairly. On this point, Barclays needs to have more than a suspicion or concern. It has to show it had reasonable grounds to believe that a fraud or financial crime had been committed or attempted and that the evidence would support this being reported to the authorities.

There was a significant amount of money involved here and it was sent in three payments - one of £800 and two of £1,400. On the bank statement a person's name was given in the narrative and the reference was 'Furniture' for each payment. It seems to me that Miss Y was expecting the money that day because at 10:50 that morning she withdrew £2,000 from an 'ASD' machine in a Barclays branch. She transferred £1,080 to a savings account. And she spent money on goods. Her account balance on the night before had been just under £200.

I can see from the case notes made by Barclays and her communications with this service that she is frustrated to be asked about the source of the money over and over. But I'm afraid that this is the crux of things here. Barclays received a report that this money had been fraudulently obtained. Miss Y's position is that the money is rightfully hers and she has lost over £1,400 of this. So, I would reasonably expect her to do everything she could to demonstrate this money is hers. And to help explain why someone she says was freely sending the money to her would quickly report this as fraud. I appreciate it might be more difficult to get evidence of this now. But that issue was apparent to her at the time and by July 2017 at least when she returned from her trip abroad. And although she might have had difficulty getting Barclays to help her, she's not shown she then had any evidence to provide it with to support her case. And it's clear as I set out above that it was considering a complaint from her in November 2017. So, I'm struggling to accept that she wasn't able to pursue the issue with this money any further.

The position unfortunately is that I have nothing else to support Miss Y's account of what happened. I accept she had over £9,000 in her ISA until November 2016 when she withdrew most of this in cash. But she's not been able to put together a credible explanation of her saying lending part of this to a friend, her attempts to get that money back and why it would be paid by someone she had no connection with and then reported as fraudulent.

I won't be able to say *exactly* what happened and I'm considering what is *most likely*. And on balance I'm not persuaded that this money wasn't fraudulently obtained, and that Miss Y didn't reasonably know that it wasn't genuinely hers.

Barclays says that it applied the CIFAS marker because Miss Y received fraudulent funds into her account. So, I've looked at whether Barclays was fair to apply the marker, based on the evidence it had, and the investigation it carried out. CIFAS guidance says the business must have carried out checks of sufficient depth to meet the standard of proof set by CIFAS. This essentially means that Barclays needs to have enough information to make a formal report to the police. And that any filing should be for cases where there are reasonable grounds to believe fraud or financial crime has been committed, rather than mere suspicion.

Having reviewed Miss Y's account of events and the evidence Barclays has provided, I'm satisfied that Barclays had sufficient evidence for the CIFAS marker to be recorded. In coming to this view, I've taken into account the following reasons:

- Miss Y received fraudulent funds into her account and didn't report this to Barclays at the time.
- She authorised the withdrawal of part of the funds and so was in control of who had the benefit of this money.
- Barclays had grounds to believe that Miss Y had used fraudulently obtained funds based on the evidence it had

So, I'm afraid I don't have a basis to require Barclays to remove this CIFAS marker. I know Miss Y will be very disappointed by this.

My final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss Y to accept or reject my decision before 5 October 2020.

Michael Crewe
Ombudsman