

The complaint

Mr K has complained Barclays Bank UK PLC has placed a marker about the misuse of his account facility on his record. He doesn't believe he did anything to cause this.

What happened

Mr K had an account with Barclays which was closed on 8 April 2016. In 2019 he went to open a savings account with another bank. This application was rejected. He found Barclays had lodged a fraud-related marker against him with the industry fraud database, CIFAS.

He complained to Barclays who felt there was sufficient evidence to show they'd had reason to believe Mr K had received unauthorised funds into his account which he then spent or transferred elsewhere. Barclays did note that back in 2016 they'd taken longer to review Mr K's account than they'd promised. They paid him £50 in compensation.

Mr K brought his complaint to the ombudsman service. Our investigator reviewed the evidence from both Barclays and Mr K. Mr K told him he'd sold a couple of sofas and received about £2,100 from someone he didn't know that well. He believes they then raised a false claim with Barclays to try and get the money back.

After considering evidence from the bank where the money had been sent from into Mr K's account, our investigator believed there was enough evidence to show Barclays hadn't done anything wrong. I'll call this other bank H.

Mr K has had a tough time of things and hasn't been well. He's anxious about the impact of the CIFAS marker and thinks it's unfair that it's not been removed. He's asked an ombudsman to make a decision on his complaint.

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, I've reached a similar conclusion to our investigator. I'll explain why.

The bar for recording a CIFAS marker is a high one. 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 should be more than just a suspicion or concern.

It follows that the bank must have carried out sufficient checks to satisfy this requirement. Given the impact a CIFAS marker can have on someone, the bank is expected to keep a record of these checks so it can evidence the decision it reached to record the CIFAS marker.

Firstly I can see the timeline of events, each party's testimony and how the transactions were made were covered in our investigator's view of 7 November 2019. I don't intend to

repeat everything that was said there. I will, of course, refer to those aspects which form the basis of my decision. I can reassure Mr K and Barclays I've read the file thoroughly and reviewed all the evidence.

The following summarises what I've considered:

- Barclays closed Mr K's account after H notified them he'd received a fraudulent payment of £2,058. They didn't however scrutinise this evidence. They blocked Mr K's account and then closed it. They then repaid £464 to H from Mr K's account.
- Our investigator contacted H to see what evidence they had of this transfer in March 2016. This showed there'd been another attempted payment of £950 destined for Mr K's account.
- There's no evidence to show Mr K contacted Barclays back in 2016 to wonder why he'd not received £950 that was being sent to him. He also didn't query the fact money had been removed from his account when it was closed.
- There's no dispute Mr K took out £200 from his account after he'd received the payment for £2,058 and sent the remaining money to someone he knew. That person then sent £100 back to Mr K £100.
- Mr K says he owed someone money but I think it's unusual that the money he owed tallied so closely with the money he received from the sale of two sofas.
- Mr K no longer has any evidence about the sofas and who he sold them to. This did occur more than four years ago so I'm not surprised he wasn't able to provide us with any evidence apart from his testimony.

I'd generally expect Barclays to have carried out an investigation prior to making a decision to lodge a CIFAS marker. That's certainly the requirement. I can't see they did this at the time. Therefore Mr K had no opportunity to explain what had happened or provide any evidence that he may still have had at the time.

However having reviewed the evidence we do have now, I think it is most likely Mr K knew he was in receipt of fraudulent funds and passed them on to a third party. This means Barclays could lodge a CIFAS marker as the evidence supports them.

I appreciate a CIFAS marker will have a considerable impact on Mr K and may limit his chances of securing financial services products. This was lodged in April 2016 and will disappear from his CIFAS record in April 2022.

My final decision

For the reasons I've given, my final decision is not to uphold Mr K's complaint against Barclays Bank UK PLC.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 7 January 2021.

Sandra Quinn
Ombudsman