

The complaint

Mr O has complained that Barclays Bank UK PLC registered a marker against him at CIFAS, the national fraud database.

What happened

In 2018, four bank transfers were paid into Mr O's account, then sent on shortly afterwards.

Barclays then received notifications from the sending banks that the four transfers into Mr O's account had been reported as fraudulent. The people who'd sent the money said they were buying goods, but that the seller had instead blocked them and never delivered the goods.

Barclays closed Mr O's account and registered a "misuse of facility" marker against him with CIFAS. It didn't ask Mr O about what happened, nor tell him about the marker.

Mr O says that following this, he had other accounts closed and had trouble opening a new one. In 2020, he found out about the CIFAS marker and complained.

Mr O explained that he'd made friends with someone he met at his place of education. They had later asked Mr O to receive money on their behalf and send it on, saying they didn't have their own account and needed his help. Mr O explained that he saw this person as a friend, and it didn't occur to him that he could be helping them to do something wrong. He explained that after his account was closed, this person distanced themselves from Mr O and then blocked him.

Our investigator looked into things independently and upheld the complaint. He said that since Barclays didn't investigate the matter at the time, he couldn't be satisfied that Mr O had deliberately committed fraud here. He found Mr O's testimony to be plausible, especially given his circumstances, and he couldn't see any good reason to doubt him. He asked Barclays to remove the CIFAS marker.

Barclays didn't agree. It reiterated that the other banks had confirmed the transfers were fraudulent. It questioned why Mr O had waited two years to complain. It did offer to return the 27 pence left over in his account.

The complaint's 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 that, I've come to the same conclusions as our investigator, and for much the same reasons.

In order to register this CIFAS marker, Barclays needed to have more than just a suspicion or concern. It needed to have reasonable grounds to believe that Mr O had intentionally attempted or committed fraud, and that the evidence was rigorous enough to support this being reported to the authorities.

Both sides accept that Mr O consented to the transfers, and both sides now understand that the transfers were fraudulent. The question is whether Mr O knew they were fraudulent at the time.

At the time of the incident, it does not look like Barclays made any significant investigation into whether Mr O knew that he was receiving fraudulent funds. For example, it didn't speak to Mr O back in 2018 to get his side of the story. This is a point of concern. It is difficult for me to see how Barclays could be satisfied that Mr O intentionally tried to commit fraud without really looking into the matter or trying to clarify the situation. It also means that I have no previous testimony to compare Mr O's current testimony to, since Barclays just reported him instead of speaking to him. I don't think that fulfils the criteria of the evidence being so rigorous that Barclays could confidently report Mr O to the authorities.

Barclays says it relied on the reports from the sending banks. But I don't think that's good enough in this case. *Barclays* registered this CIFAS marker, not the other banks. So Barclays needed to be satisfied of its own accord that Mr O had intentionally tried to commit fraud. Barclays should be well aware that sometimes people have been tricked into unwittingly forwarding on fraudulent funds – not least people of Mr O's young age. Here, I don't think that the sending banks' reports were sufficient to conclude that Mr O definitely knew he was passing on fraudulent money.

Mr O's testimony has been plausible and consistent throughout this complaint. He's been open about what happened and about his naivety at the time. I don't think I have any good reason to disbelieve what he's told us. And while of course Mr O should have been more suspicious about what he was being asked to do, it seems very plausible that someone of his age and inexperience could have trusted someone they thought was a friend.

I understand Barclays may find it disappointing that Mr O no longer has a history of his messages with the former friend. But they messaged using a common and popular app that automatically deletes messages very quickly. So it's unsurprising that the record of the messages no longer exists. Again, I think this really comes down to Barclays not investigating things with Mr O at the time.

Lastly, Barclays questioned why Mr O didn't complain earlier. But it looks like Barclays didn't actually tell Mr O about the CIFAS marker in 2018. It seems that the first time he discovered it was in 2020, at which point he complained. I find it unsurprising that Mr O didn't complain about the marker until he actually knew about it.

I am, of course, conscious that it is also a plausible possibility that Mr O intentionally tried to commit fraud here. But that alone is not a good enough basis on which to register this CIFAS marker. Barclays needed to have more than just a suspicion or concern about the possibility of fraud. It needed to be able to reasonably show that this was fraud, and not merely a case of Mr O being used or misled. But because of its lacking investigation at the time, I don't think it's able to show that now. So I am not persuaded that Barclays had sufficient grounds to apply this CIFAS marker, nor can I safely conclude that the marker is fair.

Putting things right

I direct Barclays Bank UK PLC to remove the CIFAS marker in dispute.

I also direct Barclays Bank UK PLC to return what was left of Mr O's own funds, adding simple interest at the rate of 8% simple a year to make up for the time he was without his money. I understand the amount left over was 27p.

My final decision

For the reasons I've explained, I uphold Mr O's complaint, and direct Barclays Bank UK PLC to put things right in the way I set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 13 January 2021.

Adam Charles
Ombudsman