

The complaint

Mr K complains Lloyds bank PLC closed his account and logged information about him with CIFAS, the UK's fraud alert service.

What happened

Mr K had an account with Lloyds. Mr K hadn't used the account much. But in May 2019, an international payment of £10,100 was paid into the account. Mr K transferred £5,000 onto a currency card, for a holiday he said he planned to take. But when he went into branch to take out the remaining £5,100 Lloyds blocked his account.

Lloyds contacted the sending bank. It said its customer had been the victim of fraud and hadn't authorised the payment to Mr K. Lloyds investigated what had happened and asked Mr K for information about the payment of £10,100.

Mr K initially told bank the payment was from his international business account. He then explained that payment was for a mini excavator he'd sold on line to a company based in Poland. He said he and his brother in law were doing their drives and thought it would be cheaper to buy a mini digger rather than hire one. So, he bought a mini excavator in 2017 for £10,650 to use.

Mr K told the bank that he'd taken pictures of the excavator and posted an advert on a well-known online shopping/selling site. Mr K says he was contacted by a man, who I will refer I'll refer to as Mr N, called him about the advert, they exchanged messages and agreed a sale. He says Mr N then came to his address with a loader to collect the machine. And he handed over all the paperwork relating to the excavator. Mr K told the bank he was able to provide the bank with evidence to support everything he'd said about the transaction. But he never did.

Lloyds didn't accept Mr K's explanation and gave him notice that it would close his account. It also logged information about Mr K with CIFAS. Unhappy with this response, Mr K brought his complaint to our service where one of our investigator's looked into what had happened. The investigator asked Mr K for some more information about the sale and for evidence that he'd actually owned and then sold a mini excavator. Mr K told the investigator that he couldn't remember where he'd bought the machine from, but thought it was from a friend and he 'd paid cash. He couldn't provide any invoice or bank statement showing the payment or purchase.

The investigator asked Mr K about the advert he said he'd placed to sell the excavator. Mr K said he had used pictures he'd taken of the excavator in the advert. And that he no longer had any messages, emails or text message between him and Mr N. He said he hadn't reported anything to the police or the online website. And that he was now only concerned with getting the CIFAS marker removed.

The investigator thought that Lloyds had been justified in taking the action that it did when it logged information about Mr K with CIFAS, blocked and closed his account. On balance, she considered Mr K hadn't shown he had sold any machinery. Mr K disagreed and asked for an ombudsman to review his complaint.

As no agreement could be reached the matter has come 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.

I'm satisfied first of all that the money Mr K received was transferred as a result of a fraud or scam on the holder of the account from which it was sent. But that doesn't mean it was appropriate for Lloyds to place a CIFAS marker against Mr K. The bank needed to have a reasonable belief the matter could be reported to the police. A suspicion or concern isn't enough. So, I've looked at whether Lloyds' was fair to apply the marker, based on the evidence it had and the investigation it carried out and what the rules say about applying such markers.

Having looked at all the evidence Lloyds has provided and reviewed what Mr K has said about what happened, I'm satisfied that the bank had enough evidence to record a CIFAS marker against him. I say this for the following reasons:

- Lloyds has evidence that the credit of £10,100 received into Mr K's account on 22 May 2019 was fraudulent.
- When Lloyds first spoke to Mr K about the payment, he told the bank that it was a payment he was expecting from *his* international business account.
- It was only when the bank challenged Mr K that he said he'd sold some plant machinery and the payment related to the sale.
- The paperwork Mr K subsequently provided which includes an invoice from a Polish company does not show that any goods were actually supplied by Mr K.
- Mr K hasn't been able to provide any proof that he bought or owned a mini excavator such as a receipt, invoice or insurance certificate as well as a bank statement showing the initial purchase payment being made despite being asked to do at the time by Lloyds and more recently by the investigator.
- Mr K can't recall exactly where or from who he bought the excavator, which given the cost and nature of the item I think it's unlikely that Mr K wouldn't remember such an unusual transaction in detail.
- The image used in the online advert Mr K says he placed to sell the excavator is actually taken from an unrelated business website (dated 2018) which sells plant machinery and isn't a photo taken by Mr K as he told the investigator.
- Mr K has been unable to provide any evidence of correspondence between him and the alleged buyer of the excavator, Mr N, such as arranging payment and pick up of the machine.
- Mr K hasn't reported the matter to the police or the online sales platform, which I don't think would be an unreasonable course of action to take given Mr K says he sold an expensive piece of equipment and received only half of the money he was expecting.

For these reasons, I agree with the investigator that Lloyds was justified in placing a CIFAS marker against Mr K. I believe too that there is a strong possibility that he knew or suspected that the funds were not legitimate and that he knows rather more about the £10,100 than he is prepared to us or Lloyds.

Having looked at all the evidence, I'm also satisfied that Lloyds was within its rights to review Mr K's account and that it was entitled to block it while it carried out that review. Lloyds was entitled to close Mr K's account at any time on giving two months' notice. I can see Lloyds wrote to Mr K on 24 May 2019 to let him know it would be closing his account in 60 days. So, I can't say Lloyds has treated Mr K unfairly when it closed his account.

In summary, when I weigh everything up, I simply don't find Mr K's explanation plausible. And I'm satisfied that Lloyds met the burden to proof required in placing the CIFAS marker against Mr K. On that basis, I'm not going to ask Lloyds to remove the marker.

My final decision

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 1 December 2020.

Sharon Kerrison
Ombudsman