

The complaint

Mr E complains that Barclays Bank UK PLC closed his account and registered a marker at CIFAS, the national fraud database.

What happened

Mr E had an account with Barclays that was closed in March 2019. He later found that Barclays had also registered a fraud marker without discussing with him what had happened.

Barclays said it hadn't made a mistake in closing the account or registering the marker. It recognised that his account had been blocked for an extended period before closure and it hadn't considered his complaint correctly. It offered to pay Mr E £300.

Our investigator didn't recommend that it do anything more. She said that Mr E had received a credit of £3,150 to his account on 26 November 2018. He had withdrawn £3,000 of this in cash that day and the rest had been used to make payments. This credit has been reported as a payment obtained through a scam.

She'd asked Mr E to show why he thought he was entitled to the money. His bank statement showed some credits from an employer of £400 to £500. He says his employer was a sub-contractor to another company and that his payments had been erratic. As a result, he believed this to be a lump sum payment for his work from the other company. There did seem to be a link between the two companies. But Mr E hadn't been able to show he was due this amount for work he had completed. And he had withdrawn this money straight away. There didn't seem any reason for him to do so. Barclays closed the account in line with the terms and conditions and had a basis to apply the marker. It wasn't required to tell Mr E about this.

Mr E didn't agree. He said that he had made a subject access request to Barclays and wanted to see the information it held about him. He said that the payment of £3,150 was authorised by the main contractor and that payments might be inconsistent and in lump sums. He said he didn't trust banks and *"I thought that the payment would bounce or be blocked due to my account not having huge and consistent funds"*. He said he used the money to pay for rent and Christmas presents and says that his workplace was shut down. He thought that Barclays would have attempted to contact him as he had been a customer for a number of years.

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.

Mr E referred to making a subject access request in November 2020 and that he was told it would take 30 to 90 days. I know he wanted to be able to see that information before an ombudsman looked at this case. But in any event I think he's now had a reasonable opportunity to put all his comments and evidence forward.

I need to consider 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.

I'm satisfied on the evidence I've seen that this credit was reported as fraudulently obtained by the sender as part of a scam. I wouldn't expect Barclays to disclose information about any third party to Mr E. And in a conversation with our investigator Mr E now seemed to accept that the origin of the payment had been fraudulent.

The issue then is whether Mr E reasonably knew that at the time and so was a witting participant in the fraud. Or alternatively whether as he says he genuinely believed that this was money from his employment.

From the copies of Mr E's bank statements that I've seen, the credits from the employer he mentions start to be made on 15 October 2018 at £480. They continue that year as follows 22 October £400; 29 October £400; 14 November £400; and 12 December 2018 £500. The payment in question was made on 26 November 2018 and was for £3,510 with a different payment reference. Mr E's employer appeared to be a creditor of the main contractor which went into liquidation in 2019.

Given the problems with the main contractor it is possible that Mr E was owed more money for his employment. And this employment seemed to stop as he says in December 2018. The difficulty I have is linking the larger payment on 26 November 2018 to his legitimate employment. I can see our investigator asked him before for any contract, pay slip, invoice or tax record to support this. He hasn't provided anything I see supports this payment being due to him. And his explanation for withdrawing the money straightaway I don't see is based on any substantiated concern. To me it seems most likely he knew that these funds hadn't been legitimately obtained and that he wasn't genuinely due this money.

He says on his complaint form to this service that he did go into a branch about his account when it was suspended. And he was told that he needed to get confirmation of the payment from the payer. He says he was told by that payer this it did do so many times. But he says that he is disappointed there is no record of this and that he hadn't heard from that company since. His statement indicates that he reasonably knew at the time about the concern and didn't have any further direct evidence. So, I'm not persuaded that even if he had been able to speak to Barclays further it would have made a difference. Having said that it accepts that its own investigation into what happened took longer than normal. And that it didn't deal with all his complaint points. That's why it has offered to pay him £300.

Barclays says that it applied the CIFAS marker because Mr E received fraudulent funds into his 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 Mr E'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:

- Mr E received fraudulent funds into his account and didn't report this to Barclays at the time.

- He authorised the withdrawal of the funds and so was in control of who had the benefit of this money.
- Barclays had grounds to believe that Mr E had used fraudulently obtained funds based on the evidence it had.

Barclays was entitled to close the account under the terms and conditions. I don't have a reasonable basis to require it to do more than it has already offered to. I think that the compensation now offered is fair.

My final decision

Barclays has made an offer to settle this complaint which I think is fair in all the circumstances. My decision is that Barclays Bank UK PLC should pay Mr E £300.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 10 May 2021.

Michael Crewe
Ombudsman