

## The complaint

Mr M complains that Barclays Bank UK PLC has unfairly recorded a marker at CIFAS the national fraud database.

## What happened

Barclays received a report that fraudulent funds had been paid into Mr M's account in December 2018. Following a review, it wrote to Mr M on 2 January 2019 to tell him his account would be closed. It added a CIFAS marker. Mr M was told he would need to prove his entitlement to the remaining funds of over £2,700 in the account. Barclays allowed him access to all that money from 21 February 2019 having considered the information Mr M provided.

This service considered a previous complaint from Mr M about the closure of his account and the time taken to release the funds but didn't uphold this. We said that Barclays was entitled to make a decision to close his account under the terms and conditions. And that it had released his money within a reasonable timescale once he had provided the information and Barclays had made its checks.

Mr M only later discovered that Barclays had added the marker and raised a further complaint about this. Barclays told him in a final response of 4 February 2020 that it could review the marker if Mr M resent all the information he had about these payments as it hadn't retained this. It said that as Mr M refused to do so it was unable to review the marker. Barclays offered to pay him £100 for the time taken to consider his complaint.

Our investigator didn't recommend that Barclays do anything further. Mr M hadn't provided any information to this service. And based on the information Barclays had provided he said that he wouldn't be asking it to remove the marker.

Mr M didn't agree and wanted an ombudsman to review his complaint. He said that he hadn't been found guilty of fraud and it was up to Barclays to prove this. He no longer had emails about the specific payments, and he wanted to see the information held against him. He said that the information he provided about the other credits into his account at that time isn't relevant, he'd already provided it to Barclays, and he wouldn't be providing this again.

### *my provisional decision*

I issued a provisional decision to this complaint on 16 October 2020. I set out below what I said.

I needed 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 wanted to set out a bit more of the background of what happened. Mr M received payments of £340 on 6 December 2018 and £10 on 7 December 2018 into his account. The sender reported these payments as fraudulent and the sender's bank contacted Barclays about this

on 11 December 2018. I'd looked at Mr M's bank statement. By the time his account was restricted Mr M had technically made withdrawals against these funds of £350 in his account even though he'd had other significant credits resulting in the closing balance.

Barclays decided to restrict Mr M's account while it looked into what happened. Its notes confirm that it didn't speak to Mr M at this time about the specifics of these payments. It concluded its review and decided that it no longer wanted to provide an account for Mr M. Barclays added a fraud marker at CIFAS.

Mr M clearly then provided sufficient evidence to persuade Barclays that the money remaining in his account was genuinely his and it released this. It is unfortunate that neither Barclays nor Mr M now have any further information about the specific disputed payments. Mr M told this service that he thought he had this, but in April 2020 told our investigator he could no longer provide this.

During our investigation into this and his other complaint Mr M has accepted that there was a problem with the delivery of the related goods he'd sold to the sender of this money. The goods seemed to have been returned to Mr M. And he says that before he could deal with this his account had been frozen. He says he has paid the sender back using someone else's account. But he hasn't provided any evidence of this.

Having listened to the calls Mr M has had with our investigator I wanted to clarify that Mr M doesn't need to be actually prosecuted for fraud as he thinks for a CIFAS marker to be added. But as I've said Barclays has to have sufficient information such that there are grounds to support this being reported to the authorities. Here Barclays clearly relies on the report from the sender's bank. It decided not to speak to Mr M before it added the marker. There is no evidence provided that it received a formal indemnity claim from that bank or say told it that technically as I explained above the funds had been withdrawn. All the money in Mr M's account was released with no further suggestion he'd been involved in fraudulent activity. And as far as Mr M was concerned his wider 'trading' had been shown to be legitimate.

Mr M viewed the issue with the person sending the money as a buyer and seller dispute and not fraud. And I could understand why he thought that had been accepted by Barclays and was unhappy later to learn about the CIFAS marker. I considered Barclays had sufficient opportunity before his money was released to investigate and document Mr M's account of what happened. Requiring him to provide similar information again when it hadn't kept this wasn't reasonable and that's especially now that Mr M says he no longer has the relevant parts.

Having balanced all the factors in this complaint I wasn't satisfied that the high bar for recording a CIFAS marker has been met for the following reasons:

- The specific payments reported seemed to be part of a pattern of significant payments into Mr M's account consistent with him selling goods and making related payments.
- Beyond the report from the seller's bank there is nothing to support the specific payments being fraudulent and Mr M's account of what happened hasn't been fairly taken into account.
- Barclays released all the remaining money in the account to Mr M finding no apparent further concern and having had ample opportunity to investigate fully and review the CIFAS marker.
- Barclays hadn't persuaded me that it has satisfied the standard of proof and that there are reasonable grounds to believe that a fraud or financial crime had been committed or attempted.

So, my provisional view was that Barclays should remove the marker at CIFAS. This service has already reached a view about it closing Mr M's account and I said I was not looking at that here. I considered whether Barclays should do anything further. Mr M hasn't been prepared to provide information to support his case including about the wider transactions at the time. He hasn't shown that he has resolved the dispute with his buyer. I thought he could have helped in dealing with this matter earlier however strong his views about what Barclays has done. Taking all that into account I didn't find that Barclays should pay him more than the compensation of £100 as it has already offered to.

### **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.

Barclays said that it accepted my provisional decision and was making arrangements for the CIFAS marker to be removed and said it could take a few weeks to be updated with the relevant agencies. It said that if Mr M accepted the £100 and gave his nominated bank details it could pay this to him.

Mr M did not respond, and I see no reason to depart from the findings of my provisional decision.

### **My final decision**

My decision is that I uphold this complaint and to require Barclays Bank UK PLC to:

- 1) Remove the CIFAS marker.
- 2) Pay Mr M £100.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 31 December 2020.

Michael Crewe  
**Ombudsman**