

The complaint

Mr H complains that Barclays Bank UK PLC has registered a marker at CIFAS, the national fraud database.

What happened

Mr H says that Barclays had registered the marker after he made an application for an account. He says that his application wasn't fraudulent, and the marker has prevented him from accessing banking facilities elsewhere.

Barclays says that it closed Mr H's account in September 2018 after a report of fraud. Mr H then applied for a new account with it in March 2019. Barclays says he didn't disclose an address where he had an adverse credit history and so it then registered the marker at CIFAS. When he complained it first said in July 2019 that it should have given Mr H time to explain what happened before it closed his original account. It offered to pay him £100 but wrongly told him that there was no CIFAS marker. In September 2019 it increased the offer and paid him £250 because it had given that incorrect information. But it maintained that the CIFAS marker was justified.

Our investigator didn't recommend that the complaint be upheld. Mr H hadn't disclosed an address as part of his application in March 2019 and there was adverse credit information about him linked to that address.

Mr H didn't agree and wanted his complaint to be reviewed. He said that this was causing stress and health issues for him. And he had financial difficulties as a result of not being able to have a bank account.

my provisional decision

I issued a provisional decision on this complaint on 14 January 2021. I set out below what I said.

Through our investigator I asked Barclays to provide some further information about the application so that I could see details of which address Mr H used when he made it and what questions he had been asked.

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.

Mr H has referred to having two addresses. To anonymise them I simply referred to them by the house number of each. The first is 'Number 81' which he says is his mother's address. And the second is 'Number 2' which he says is his partner's address.

The original Barclays account that was closed had the address of Number 81. Mr H attempted to open accounts elsewhere without success. He applied to Barclays again in

March 2019. Barclays says he used an address of Number 2 in the application and said that he had lived there since January 2016. Barclays has shown that Mr H has a record of adverse credit at Number 81 and says he concealed this address in an attempt to open an account.

It has also stated that Mr H applied for an account again in December 2019. The address it has on its 'housekeeping' print for Mr H only shows his address at Number 81. He wasn't successful in that application.

I mentioned above that I had asked for more information about the application in March 2019. It seems that the information for Mr H has been merged into one record. And there is now no source information showing exactly what he input into the application in March 2019. While that might have existed at one point I'd have expected Barclays to retain the information that supports the marker being added. I also noted that while there was adverse credit information linked to Mr H at Number 81 so too was there at Number 2.

When asked by the investigator about his address history Mr H seems to have been confused about the address he did use and said that he had been staying at times at his partner's address. When he made an application to Barclays in March 2019 I didn't think he'd thought through the consequences of its previous decision to close his account. And his actions seemed most likely the result of him being desperate to have an account not attempting fraud. He made a further application later in 2019 when he again tried to open an account with Barclays only for that to be inevitably declined too.

In any event Barclays hadn't satisfied me based on the evidence that it had grounds to apply the marker and so I considered it should be removed.

I knew Mr H wants significant compensation for the consequences of the marker. I said I was going to disappoint him about that. Financial businesses aren't able to refuse to open an account solely based on a marker and in line with guidance from CIFAS must make their own checks. But they also look at information about past credit history and as I said I'd seen clear evidence that Mr H has past defaults at both addresses which would have been relevant. He may want to check all that information held about him including the full record he can obtain from CIFAS. So, with all that in mind I was unable to conclude that Barclays actions were the sole cause of him not being able to open an account elsewhere. And in making that finding I noted that he wasn't successful in opening an account before March 2019 when the CIFAS marker was applied by Barclays as well as after that too based on what he's told us.

Barclays has already offered and paid Mr H £250 in compensation for its actions in not giving him notice of the initial account closure and giving him incorrect information about the marker. I considered whether this is appropriate for the inconvenience and distress he was caused. In my provisional view the appropriate amount now taking into account everything that has happened was a total of £350 – an increase of £100.

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 H said he would accept my decision as it was the right thing to remove the marker. He said that he had been caused financial stress and problems. But that he would agree to the overall position to resolve things.

Barclays said it didn't agree. It stated what its position was on the complaint again and so

that it registered the marker because Mr H had concealed an address which had adverse credit information. And it accepted that unfortunately due to the number of applications that had been made by him the different profiles had been merged so it is “...unable to confirm the exact information provided at application stage”.

It appreciated that there was adverse credit at both addresses but it said that its issue wasn't with the adverse information on the credit file but the fact he didn't disclose the address.

Barclays explained it had contacted CIFAS and it had confirmed it agreed. It provided a copy of this correspondence. CIFAS said to it that the standard of proof it required “is a copy of the application details” and details of the relevant undisclosed adverse credit.

Clearly those points are highly relevant to my decision here about whether the high bar for a CIFAS marker was reached. And about whether it is fair and reasonable for it to be in place. I additionally take into account Barclays own acceptance that it can't evidence the details of the application. What I have seen is Barclays' comments on what it said it had at the time. But that's not the same as being able to provide a copy of the actual application details.

I've taken into account the comments from CIFAS that Barclays has provided. But in doing so, I've impartially considered those alongside all of the other evidence here. That includes what Mr H has said to this service. I've thought about whether based on that and the adverse credit at both addresses he was most likely attempting fraud. Having done so I think I can fairly explain my assessment of this complaint and distinguish it from what CIFAS said about the marker which was based on the questions and information Barclays had put to it. In doing so I don't find that Barclays has sufficiently evidenced the application details from that time, and nor has it satisfied me that there were reasonable grounds to think Mr H was attempting fraud. In these circumstances I don't think it's acting fairly or reasonably by continuing to report this as it is.

So, I stand by my provisional findings for the same reasons as before. I appreciate what Mr H has said about the impact for him, but I remain of the view that a further £100 in compensation is fair.

My final decision

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

- 1) Remove the CIFAS marker and any external fraud markers relating to this complaint.
- 2) Pay Mr H a further £100 in compensation making a total of £350.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 1 April 2021.

Michael Crewe
Ombudsman