

The complaint

Mr J complains that Barclays Bank UK PLC blocked and closed his account. And registered a CIFAS marker against his name. CIFAS is the UK's fraud alert service.

What happened

Mr J had a basic bank account with Barclays.

On 18 September 2019, an international faster payment for just over £11,800 was paid into Mr J's account. At the time his balance was £7.54. Following this Mr J made three payments from his account including a £500 payment to a solicitor to pay for his visa application.

On 19 September 2019, Mr J contacted Barclays to report his bank card as lost. Barclays sent Mr J a replacement card. On 27 September 2019, another international faster payment for just over £11,000 was paid in Mr J's account. Following this payment Barclays sent Mr J a text message asking him to get in touch so that they could speak to him about the two payments. Mr J told Barclays he didn't know anything about the money that had been paid into his account. He explained that he thought the bank had made a mistake, that he needed to pay some important bills, so he'd used some of the funds. He said he intended to pay back the money he'd used.

On 4 October 2019, Barclays were contacted by the banks from which the payments had been made. They said that their customers had been the victims of fraud, their emails had been hacked and the funds had been diverted to Mr J's account. Barclays placed restrictions on Mr J's account whilst it investigated what had happened.

Barclays didn't accept Mr J's explanation about the payments and closed his account immediately. It also placed a CIFAS marker against his name. Mr J complained to Barclays and said that he'd been unable to open a bank account due to the marker and his mental health had suffered.

Mr J referred the matter to this service where one of our investigators considered it. The investigator asked Mr J some more questions about what had happened. He told the investigator he'd been in hospital between 2 and 5 September 2019 and believed that his wallet containing his bank card had been lost/stolen. He told the investigator that he had never given his card to anyone and hadn't disclosed his PIN. He later told the investigator that his wallet had also contained his PIN. And that he didn't know anything about the money which had been paid into his account – although he did accept, he'd spent some of the money.

The investigator didn't think the bank had done anything wrong in taking the actions it did. On balance, she considered that Mr J was most likely aware of the nature of the payments paid into his account, so she said the bank didn't have to remove the CIFAS marker. Mr J didn't accept the investigator's conclusions, he maintained he'd been the victim of fraud, and he'd suffered a great deal of trouble and upset.

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'll deal first of all with the bank's decision to block and review Mr J's account whilst it investigated the concerns expressed to it by the other banks. Having looked at all the evidence, I don't believe it was unreasonable in the circumstances for Barclays to have acted in the way that it did. Barclays has explained that this was its standard procedure and it was acting in line with its legal and regulatory obligations. And I accept that it was. That's in line with what most banks would do in the same situation, and it enabled Barclays to consider how best to react to the reports it had received from the other banks. So, I can't say the bank did anything wrong here.

I'm satisfied that the funds paid into Mr J's account were fraudulent – in the sense that the holders of the accounts from which they were drawn didn't authorise them. Their own banks investigated them before reaching that conclusion and contacting Barclays. Of itself however, that doesn't mean that Mr J was involved or knew about them; it's possible to make payments to someone's bank account without their knowledge and having only the account number and sort code.

Before placing a fraud marker against Mr J's name, Barclays needed to have a reasonable belief that a financial crime had been committed and that the evidence was such that the matter could be reported to the police. A suspicion or concern isn't enough. 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, and what the rules say about applying such markers.

Mr J told Barclays and the investigator he didn't know anything about how the two fraudulent payments, amounting to just under £23,000 in total, came to be paid into his account. He has suggested that he's been the victim of fraud and that an unknown third party got hold of his bank account details as a result of him losing his wallet and paid the money into his account.

I've thought carefully about what he's said. Having done so I think it's most unlikely that an unknown third party would arrange to make two payments into Mr J's account nine days apart unless they were confident that they would be able to withdraw the money or transfer the funds to another account from which they could withdraw it.

Mr J has told us that he was aware of the funds coming into his account. And thought it might be a mistake. But I haven't seen any evidence that he alerted the bank about his concerns. Instead, I can see that Mr J reported his bank card as lost on 19 September *after* the fraudulent payment of £11,844.0 had hit his account. I can't see he took this opportunity to tell the bank about the unrecognised large credit coming into his account, which I think would've been a reasonable course of action for him to take, especially if he thought he'd fallen victim to fraudsters and his account had been compromised as he's suggested.

Mr J has consistently said he knows nothing about the fraudulent payments. Whilst he's acknowledged the money didn't belong to him, not only did he make a payment for £500 to his solicitor using the funds, but he also spent around £1,500 using the replacement bank card Barclays sent to him after he reported his card as lost. Mr J hasn't disputed any of these transactions, which suggests to me he made them himself. So, he's spent money which he knew didn't belong to him.

I've also kept in mind that Mr J says he thinks he lost his wallet containing his bank card when he was in hospital between 2 and 5 September 2019. But I don't think it's likely that an unknown third party would steal Mr J's wallet and then wait two weeks to pay fraudulent funds into his account. Then wait another nine days before doing the same again. I don't think an unknown third party would run the risk of paying money into Mr J's account on two separate occasions over a period of nine days (longer if I accept Mr J's submissions), during which time Mr J may have discovered his account had been compromised.

I also can't see how an unknown third party would've been able to access the funds that were paid into Mr J's account given he'd reported his bank card as lost on 19 September 2019, so it was cancelled. And Mr J was still in possession of his replacement card. Even if I accept an unknown third party gained possession of Mr J's bank cards, I've kept in mind that whilst some of the information needed to make the payments could've been taken from Mr J's card, it didn't contain enough information for the payments to be made into his account from overseas, for example Mr J's address. And I've not seen any evidence for how an unknown third party could obtain the relevant details needed for not one but two payments which were made into Mr J's account. Based on the evidence I've seen, it appears only Mr J would've been able to do this.

When I weigh everything up, I'm not persuaded by Mr J's version of events that he knows nothing about the fraudulent funds which were paid into his account in September 2019. Taking everything into account even if Mr J didn't arrange for the funds to be paid into his account himself, then I think he allowed someone else to do so.

In the circumstances, I think there would've been good grounds to report the events here to the police to investigate, and that Barclays was therefore justified in placing a CIFAS marker against Mr J's name. I think it more likely than not that Mr J knew rather more about the account activity than he's told the bank or this service. So, I won't be asking Barclays to remove the fraud marker.

I then turn to the bank's decision to close Mr J's account. It's generally for banks to decide whether or not they want to provide, or to continue to provide, banking facilities to any particular customer. Unless there's a very good reason to do so, this service won't usually say that a bank must keep customer or require it to compensate a customer who has had their account closed.

Banks should however, give reasonable notice before closing an account. Usually, that means 60 days' notice, but it can be less – depending on the circumstances. In this case, Barclays closed Mr J's account immediately. In my view that was reasonable, given the concerns the bank had about how Mr J was operating his account. And I'm satisfied it did so in line with the terms and relevant regulations. So, whilst appreciate this caused him trouble and upset, I can't say Barclays have treated him unfairly when it decided to close his account without notice.

Finally, I note that in response to the investigator's view, Mr J says that he is a victim of discrimination by Barclays. And the bank only blocked and closed his accounts on the grounds of his race. But while I appreciate this is his perspective, it is not my role to decide whether discrimination has taken place as a matter of law – only the courts have the power to decide this. I have, however, considered the relevant law in relation to what Mr J has said when deciding what I think is the fair and reasonable outcome. Part of this has meant considering the provisions of The Equality Act 2010 (The Act).

The Act describes race as a *protected characteristic* and sets out that ‘*a person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A would treat others.*’ So, in considering whether Mr J has been unlawfully discriminated against, I need to determine whether there is evidence to suggest that he was treated less favourably on account of his race. But after looking at all the evidence, I’ve not seen anything to suggest that this was the case. So, I haven’t found that Barclays behaviour was improper when it decided to block and close his accounts.

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 J to accept or reject my decision before 19 April 2021.

Sharon Kerrison
Ombudsman