

The complaint

Mr Z complains that Starling Bank Limited has registered a marker against him at CIFAS, the national fraud database.

What happened

Mr Z says he found out about this marker when he lost his employment. He has shown that the company he worked for said there were a number of CIFAS markers against his name. He says that he had an account with Starling Bank but hadn't received a 'false instrument' as claimed in its CIFAS entry about him.

Starling Bank said that it had closed his account on 9 April 2019 and wouldn't be providing any further explanation. And that it had reviewed the marker and said it remained appropriate.

Our investigator didn't recommend that the complaint be upheld. He said that on 4 April 2019 Mr Z had received £800 into his account. He had quickly transferred this to a different financial business. On 5 April 2019 in response to an email from Starling Bank he had said that this was a payment for selling a product alongside the person whose name was quoted with the payment. Starling Bank wasn't satisfied with that explanation and had received information that the money had been obtained fraudulently through a loan application.

Mr Z had now told him that he didn't send the email in April 2019. He had no involvement with the other person named. He had received the money and treated it as extra money and if someone had accidentally paid it to him then he was lucky. It wasn't fraud to move this money on and he did this to protect the money as his account may be hacked.

Our investigator didn't accept Mr Z's explanation as a plausible one as there was no reason why an unrelated third party would make a false application and arrange for the money to be paid into Mr Z's account allowing him benefit from this.

Mr Z didn't agree. He said that the other CIFAS markers had no bearing here. And he thought that any reference to them tainted the assessment. Those markers were completely different ones. He had received this money and transferred it to a different account. He said he was prepared to send it back. But he would have complained about this as someone had sent it to him whether mistakenly or not. Mr Z said he had personally sent money to an incorrect account number in the past and didn't get it back. If he had to return this money he would have done so.

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 need to consider whether the report to CIFAS was made fairly. On this point, Starling Bank 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've seen evidence that this money originated from a fraudulent loan application. At the time Starling Bank believed Mr Z had given it a completely false explanation of how he came by this money. And so, it closed his account. Even if as Mr Z says a fraudster somehow also intercepted his email account to provide this information to Starling Bank, Mr Z then knew his account was abruptly closed and on his version of events for no reason.

We've now been able to take into account Mr Z's full explanation. And like the investigator I find it highly unlikely that this fraudulently obtained money would have been paid into Mr Z's account by mistake. The loan application was supported with information with his sort code and account number.

I also find Mr Z's actions in moving this money to an account at a different financial business in his name within ten minutes of receipt also consistent with him knowing these funds weren't due to him. If this was a mistake and he wasn't involved I've have reasonably expected him to have raised this with Starling Bank. And although not impossible for his email account to be hacked I can't see why a fraudster would have tried to exonerate Mr Z as the email seemed to. By then the money had been moved on.

Frankly I find Mr Z's explanation implausible. I also want to say that I place no weight in reaching that finding on any other CIFAS markers in his name. That was the reason why the investigator referred to them too and I know that this service is looking at separate complaints about those

Starling Bank says that it applied the CIFAS marker because Mr Z received fraudulent funds into his account. So, I've looked at whether Starling Bank 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 Starling Bank 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 Z's account of events and the evidence Starling Bank has provided, I'm satisfied that Starling Bank had sufficient evidence for the CIFAS marker to be recorded. In coming to this view, I've taken into account the following reasons:

- Mr Z received fraudulent funds into his account and didn't report this to Starling Bank at the time.
- He authorised the withdrawal of the funds and so was in control of who had the benefit of this money.
- Starling Bank had grounds to believe that Mr Z had used fraudulently obtained funds based on the evidence it had.

I appreciate what Mr Z has said about the potential consequences of this and other CIFAS markers for his employment. But I'm afraid I don't have a reasonable basis to require Starling Bank to do anything further about this marker.

My final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Z to accept or reject my decision before 28 June 2021.

Michael Crewe
Ombudsman