

The complaint

Mr R complains that Starling Bank Limited registered a marker at CIFAS, the national fraud database, after closing his account.

What happened

Starling Bank says it received a report that a payment of £50 received into Mr R's account on 6 December 2019 was fraudulent. It asked him to provide evidence to show this was legitimate. Mr R told it that this was a deposit for a work Christmas meal he had been collecting from a colleague. But the information he provided didn't substantiate this and it closed his account and added the marker.

Our investigator recommended that the complaint be upheld, and the marker removed. He said that there was high bar for adding the marker. The payment raised suspicions and Mr R's evidence didn't demonstrate he had received the money for the reasons he stated. But he didn't think that this sufficient for Starling Bank to be able to identify that a criminal offence had occurred.

Starling Bank didn't agree and said that it had applied the standard of proof for CIFAS and hadn't made a mistake.

my provisional decision

I issued a provisional decision on this complaint on 30 July 2021 and said that I did not intend to uphold it. I set out below what I said.

I needed 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.

Our investigator put some further questions to Mr R about this payment as Mr R said he had lost his job as a result of the marker. And it was unclear why if this money had been for a work colleague as he said this couldn't have been resolved. He was also asked who he had paid the money to and to point out other deposits he had received in this way.

Mr R maintained that the money was for a work event. He explained that the person who sent him the money was sending it on behalf of colleague of Mr R, who wasn't at work at the time and couldn't then afford to pay. He said that he had been unable to contact the sender since then. And as this person wasn't part of the company, his employer couldn't do anything. He lost his job, and this has caused him stress and depression and he has limited other opportunities. He didn't answer the question about who he sent this money on to and when. And nor did he identify any other similar deposits for this meal.

Frankly, I didn't find Mr R's explanation of how he came to receive this money credible. This is now more involved, and he says the payment was intended for the benefit of a person with a different name to him. The name of that person isn't included on the

distribution list for the Christmas event he has provided. And he hasn't been able to show that the money was used for the purpose he says it was sent to him for rather than for his benefit. I was unclear why the employee he says had asked for the money to be sent couldn't assist him.

The difficult position for him is that Starling Bank has received a claim that this money was obtained fraudulently. This has been looked into by the financial business that operates the account of the sender. Mr R had the full opportunity at the time to put forward what could have been a simple explanation – not least because this was raised on 8 December 2019 - before the event he says was due to take place. It isn't as if he'd said for example that this was a buyer seller dispute over a product or service he'd provided. In my view the circumstances gave Starling Bank more than cause for suspicion and grounds to think that a fraud or financial crime had been committed or attempted. I appreciated the size of the payment involved and that there is no information about any other such reports. But that doesn't detract from the concerns about Mr R receiving this money and which he hasn't been able in my view to address.

Starling Bank says that it applied the CIFAS marker because Mr R 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 R's account of events and the evidence Starling Bank has provided, I was satisfied that Starling Bank had sufficient evidence for the CIFAS marker to be recorded. In coming to this view, I'd taken into account the following reasons:

- Mr R 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 R had used fraudulently obtained funds based on the evidence it had.

I appreciated what Mr R says about the impact the marker has had on him. But I said that in my provisional decision I didn't have a reasonable basis to require Starling Bank to do anything more.

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.

Starling Bank didn't make any further comments.

Mr R didn't agree and asked what further information he could provide. He was unhappy that this was over a mere £50 and his accounts were closed down and the marker added. This has affected his life and ability to get employment and support his family. He wanted the marker removed and said that if this had been fraud it would have been for hundreds of thousands of pounds and that Starling Bank had acted in an arrogant way.

He submitted a marked up copy of his bank statement from that time showing that other payments he received were related. And that some amounts were less than £50 because he had partly been paid in cash and some have been transferred. He wanted to know why

these others weren't pulled up. He didn't know how he was supposed to get any further information if he didn't have access to his banking app and didn't work for the company now. He can't get any proof from this individual outside work.

I am looking at a complaint about what Starling Bank did. I am considering whether it made a mistake and it acted fairly. I am taking into account guidance from CIFAS and the standard required to add a marker. There is no minimum amount in considering fraud and although I understand Mr R's point about there being no other evidence of problems, that's not something that means that Starling Bank was wrong to consider this payment alone.

I appreciate what Mr R says about not having information or evidence now and the difficulty in getting this. But he was given a full opportunity to provide this at the time to Starling Bank when the barriers he now describes such as not having details about his account and not working for the company any more weren't there. In fact, given what he says about the impact of the marker on his employment there was an even stronger incentive for him to sort this out with colleagues. I have noted other payments he received around that time and our investigator asked for details of these before I issued my provisional decision and evidence about where any money was sent. I don't on the evidence available have a basis to think that these are linked as Mr R insists to a work event. I'm afraid I still don't find his account of that credible.

I don't have a basis to think that Starling Bank made a mistake and I think it was reasonably required to record what it considered to be fraud. I understand the ongoing impact for Mr R but I'm afraid that arises as I have explained in my decision from the consequences of his actions in receiving funds he can't show he was entitled to. I won't be asking Starling Bank to do anything further.

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 R to accept or reject my decision before 27 October 2021.

Michael Crewe
Ombudsman