

The complaint

Miss H complains that Barclays Bank UK PLC closed her accounts and recorded information about her with fraud prevention agencies. She feels this is unfair and would like this information removed.

What happened

Miss H has complained using a representative, but for ease of reading I've referred only to Miss H in this decision.

Miss H had her bank accounts with Barclays. In September 2020 her current account received two large credits. These payments were then rapidly transferred out of the account, in eight separate transactions to a cryptocurrency firm.

Several days later Barclays received word from the sending bank that the payments were the result of fraud. Barclays blocked Miss H's account while they looked in to things. After reviewing what happened Barclays took the decision to close Miss H's accounts and retain the money in them. They also recorded a marker with the national fraud database, CIFAS.

Miss H complained to Barclays about this. She said she didn't have access to her accounts at the time of the transactions, and she didn't know about the money coming in to her account. She hadn't given her banking details to anyone or allowed someone else to use her account. But she said she'd entered a competition online to win a car and may have entered her personal information.

She said the marker with CIFAS had meant she wasn't able to open an account elsewhere. To resolve the complaint, she asked for the money in the account to be returned to her, and for the CIFAS marker to be removed.

Barclays investigated, but felt that the terms of Miss H's account allowed them to restrict and then close her account. They also said that in line with Banking regulations they have an obligation to report incidents like this to CIFAS and felt the information they recorded was accurate.

But Barclays accepted their customer services hadn't been up to standard, and they had taken too long to allow Miss H access to the funds in the account. They agreed to release the funds and pay Miss H £100 compensation for the inconvenience.

Unhappy that the CIFAS marker would remain Miss H referred the complaint to our service. One of our investigators looked at it but didn't think Barclays had done anything wrong. The investigator explained that to record a marker with CIFAS Barclays would have to have reasonable grounds to believe Miss H was involved in fraud or financial crime.

Having reviewed the evidence they saw that the same mobile device that made the transactions out of the account had been used by Miss H previously. They also said that Miss H had sent money to the cryptocurrency firm previously. They didn't feel the explanation of the car competition could explain how Miss H's phone was accessed.

Based on this the investigator felt it was more likely than not Miss H had knowingly moved on the fraudulent funds. On that basis she felt the CIFAS marker was fair.

Miss H disagreed with this, so the case 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.

CIFAS marker

Our investigator outlined in detail the level of evidence required for Barclays to record a CIFAS marker against Miss H – so I won't repeat it in detail here. But briefly Barclays need to be able to demonstrate that there are reasonable grounds to believe that fraud or financial crime has been committed or attempted. And that Miss H was complicit in this fraud or financial crime.

The important question for me to answer is whether Barclays have sufficient evidence to meet this standard of proof. Having considered this, I'm satisfied they do. I'll explain why.

- It's accepted the payments in to Miss H's account were the result of fraud. They were reported as such by the sender. And Miss H hasn't indicated this was money she thought belonged to her or was expecting to receive.
- After the payments were received in to Miss H's account they were rapidly moved on to a cryptocurrency firm using mobile banking. From the recorded device IDs this mobile device had been used to access Miss H's online banking for at least ten days before the fraudulent payments in. This device was also associated with Miss H's mobile number.
- This device had previously been used to make payments to the same cryptocurrency firm, and Miss H hadn't disputed these transactions. Miss H accessed her online banking to make genuine transactions after these, so they would've been visible to her, and she could've reported them to Barclays had they not been genuine. This satisfies me it's was more likely than not Miss H who made these transactions, or she was at least aware of them.
- Miss H has said she only used one device for her mobile banking – and there is a second device ID that was accessing her account around this time. This device was also linked to Miss H's same mobile number but had been accessing the Barclays account for much longer and made other transactions that Miss H hasn't disputed. I can see that this device had also authorised a payment to the same cryptocurrency firm. This satisfies me both devices were being used by the same person.
- All the transactions to the cryptocurrency firm – using both devices, and whether disputed or undisputed by Miss H – have the same reference in the transaction. This again strongly suggests they were all sent by the same person, to the same cryptocurrency account.
- Miss H has suggested her details may have been taken when she entered an online competition to win a car. She hasn't provided any evidence of this competition but has commented on what details she thinks she entered. But it doesn't seem likely a

fraudster would be able to set up mobile banking on two separate devices with the information she says she provided.

- Setting up mobile banking on a new device would require either use of the PINsentry device – and with it Miss H's real debit card – or an authentication code sent to Miss H's mobile number. And Miss H hasn't mentioned sharing an authentication code, or her online banking details, to enter the competition. On that basis I don't think it's plausible the mobile banking could have been set up without her knowledge.
- The money was rapidly moved on after it was sent to Miss H's account – both fraudulent transactions were moved on within an hour. This suggests to me the person moving it was expecting it to arrive, and as such knew about the fraud taking place. And the larger fraudulent transactions were sent onwards in smaller amounts, which suggests they were looking to conceal the nature of the transactions from any account monitoring systems.

Based on this, I can't see a plausible explanation of how an unknown third party could have accessed Miss H's account and used it to pass on the fraudulent funds. It's more likely than not that the transfers out were done by either Miss H or someone with her consent. On that basis, I think the standard for evidence for Barclays to record a marker with CIFAS has been met. For this reason, I won't be asking Barclays to remove it.

Customer service

Miss H has also complained about the service she received from Barclays. There are several issues here that Miss H complained about, and I don't intend to address them all individually – but I can see the major issues are around having to contact Barclays repeatedly to find out what was happening with that account and that they retained the money in the account far longer than expected.

I can see Barclays have accepted that their service wasn't up to standard and offered £100 for the inconvenience this caused.

Having reviewed everything, I'm satisfied Barclays didn't do anything wrong when retaining the funds in Miss H's account while they carried out an investigation in to what happened. The account had been used to accept fraudulent credits, so I understand why Barclays would wish to know where the money in it had come from. I think it's fair for the bank to ask for further information before releasing any funds

However, I agree they could have released the money to Miss H much sooner – considering the relatively low value and that she could demonstrate who where it had come from.

I can also see Miss H was regularly trying to contact Barclays from an update while waiting for the funds to be released.

Miss H has been inconvenienced by Barclays not dealing with this in a timely fashion. However, I do have to temper this with the fact that the root cause of the restrictions on the account is down to the fraudulent credits paid in and moved on, which as I've explained above I think Miss H likely was involved in.

On that basis I think the £100 offered is a fair reflection of the inconvenience Miss H suffered, and I wouldn't ask Barclays to increase it.

My final decision

My final decision is that Barclays Bank UK PLC's offer of to pay Miss H £100 to settle the complaint is fair in the circumstances, so I'm not asking them to do anything further

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 29 November 2021.

Thom Bennett
Ombudsman