

## The complaint

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

## What happened

In late 2019, Mr O sold a phone through an online marketplace. He says the buyer asked to pay him via a direct bank transfer rather than through the marketplace. Mr O accepted this and received several hundred pounds as a faster payment.

Mr O then transferred this amount to his other account. A couple of hours later, Starling received a fraud claim from the buyer's bank, saying the buyer had reported this as fraud and said they never got the goods. Starling queried the payment with Mr O. A few days later, they asked him for evidence such as proof of postage. But Mr O said he couldn't find the proof of postage and wasn't sure what he should send. Mr O was a minor at the time.

Starling closed Mr O's account and registered a marker against him at CIFAS.

Some months later, Mr O discovered the marker and complained. He provided our service with his messages with the buyer, including a video of him boxing up the phone. Our investigator looked into things independently and didn't uphold the complaint. Mr O asked for an ombudsman to look at things afresh, so the complaint was passed to me to decide.

I sent Mr O and Starling a provisional decision on 15 December 2021, to explain why I thought the marker should be removed. In that decision, I said:

*I need to consider whether this report to CIFAS was made fairly. On this point, Starling needed to have more than just a suspicion or concern. They need to be able to show that they had reasonable grounds to believe that fraud or a financial crime had been committed or attempted, backed up by evidence which would support it being reported to the authorities.*

*Based on what I've seen so far, I think Starling had good reason to be suspicious or concerned, and I don't think they acted wholly unreasonably in adding the marker. But I think that, especially given the new evidence that's come to light, the marker should now be removed. I'll explain my reasons.*

*Mr O has sent us records of his text conversations with the buyer, including a video of him preparing the package to be sent. And his submissions seem to broadly support this being a genuine transaction. A later image even shows the package having paid postage labels on it. Unfortunately, it's too blurry for me to be able to see the relevant tracking details, but it does suggest that Mr O at least paid for postage.*

*As far as I've seen, this appears to have been an isolated incident – there was not a trend of fraud reports, and Mr O's account seems to have otherwise been genuine. I've looked at his other account too, and it looks like he often deposited his money there and used it for his everyday spending – so that was not unusual behaviour for him.*

*Mr O suggested that the buyer may have reported the payment as fraudulent after he'd sent the phone in order to get their money back – and I can't rule out this possibility. Nor can I rule out that the buyer was simply mistaken, or that they were too hasty in reporting things. It's worth noting that the buyer reported this payment as fraudulent within just two hours, saying they never got the goods. But no matter what kind of postage Mr O used, it would have taken at least a day for the package to arrive – and most likely far longer, not least given it was in the holiday period. It was simply not possible for the phone to have arrived within just two hours or less. This does call the fraud report into question.*

*I also need to bear in mind that Mr O was only a minor at the time, so it is plausible that he was taken in by someone's request to make payment off the marketplace platform. It's also quite possible for him to have misplaced the proof of postage or to have not thought to keep it, and he was only specifically asked for it several days later. Further, Starling did not make it clear how important it was that Mr O evidenced his entitlement to funds. They never told him about a potential CIFAS marker, and given his young age I can see why he may not have realised how important it was for him to explain himself more clearly.*

*I also accept it's possible that Mr O was really trying to defraud the buyer. But ultimately, given there's not much substantial evidence either way, this seems to be a bit of a "he said, she said" situation. And I don't think that's a strong enough basis for a CIFAS marker.*

*So taking everything into account, I currently think the marker should be removed.*

*I've also thought about whether Starling should pay compensation to Mr O for what happened. But as I said above, I don't think they acted unreasonably overall – they had good reason to be suspicious of Mr O, they had a fraud report from another bank, and at that point Mr O didn't give them any significant evidence to substantiate his side of the story. He only provided the conversation history when the case came to our service. So I don't plan to make any further award other than removing the CIFAS marker.*

I said I'd consider anything else anyone wanted to give me – so long as I received it by 12 January 2022. Starling didn't send anything substantially new. Mr O made some further comments, which I'll talk about below.

### **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 O explained he was very happy that the marker would be removed, but asked if we could reconsider the issue of compensation. He felt that Starling had acted negligently in adding the marker, and he reiterated the substantial trouble and upset the marker had caused him.

I do understand Mr O's point of view, and I appreciate the wide-ranging effects that the marker has had for him. The issue is that I don't think Starling acted negligently or particularly unreasonably in adding the marker. It's worth bearing in mind that at the point they added it, they had an official fraud report from another bank, they had good reason to be concerned, Mr O hadn't provided any significant evidence to back up his side of things, and it would have looked like that fraud report was correct. Mr O's most substantial evidence – his records of the conversations – were only sent later on to our service; he didn't send them to Starling at the time. And it's worth bearing in mind that we're here to resolve complaints, rather than to punish or fine businesses.

So while I see where Mr O's coming from and am grateful for his candid testimony, I don't require Starling to pay compensation in this case.

In regard to the CIFAS marker itself, I've not seen any reason to change the conclusion I reached before. So having reconsidered the issue, I still think the marker should be removed, for the same reasons I set out in my provisional decision above.

### **Putting things right**

I direct Starling Bank Limited to remove the fraud marker in dispute.

### **My final decision**

I uphold Mr O's complaint, and direct Starling Bank Limited to remove the fraud marker in dispute.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 10 February 2022.

Adam Charles  
**Ombudsman**