

The complaint

Mr S complains that Barclays Bank UK PLC registered a marker at CIFAS, the national fraud database, after closing his account.

What happened

Mr S says that his account was closed in October 2020 after Barclays had told him it was being investigated. He later found out about the CIFAS marker when his account at a different bank was closed. He says he is now only able to have an online account at a different financial business and which doesn't meet his needs.

Barclays said it hadn't made any mistake and said that it wasn't going to provide Mr S with any more information about its decision.

Our investigator didn't recommend that the complaint be upheld. She noted that Barclays hadn't explained the issue at the time. On 17 September 2020 Mr S had received a payment of £100 into his account with reference 'tow bar'. This had been reported as a scam by the person who sent the money. Mr S had sent a payment from his account the next day to his credit card account that included the benefit of this money.

She'd spoken to Mr S about this and initially he said he had no recollection. The next day he'd called her and said his friend he was working with at the time had asked him to use his account to receive the money for a tow bar sold online. His friend had deleted the social media account about this. Mr S said his friend had asked him to do this because he had an overdraft and wanted cash. The item hadn't been supplied. Mr S was unclear if he'd paid his friend the £100 back saying it might have been in cash or a deduction from his wages. He wanted the CIFAS marker removed and offered to pay £100 if this would help.

Our investigator said she was satisfied that the funds were fraudulently obtained. Mr S had been unable to provide any evidence of contact with that friend at the time about the money to show why he'd received it. And he'd benefited from it. She noted that he'd quickly changed his story about what happened and thought that, even given the time that had passed, the reference for the payment seemed memorable. She said that there was a high bar for a CIFAS marker. Barclays ought to have asked Mr S more about things at the time. But she didn't think that this would have made a difference to any evidence Mr S was able to provide. A letter from his friend now or repaying the money wouldn't help. She concluded he was a witting participant in what happened.

Mr S didn't agree and said that he wouldn't have thought this issue over £100 could have caused so much aggravation. He wanted to know what he needed to do to appeal this and wanted the CIFAS marker removed. He wasn't concerned that his account at Barclays had been closed.

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, Barclays 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.

Barclays received a report from the sender's bank that the money had been obtained fraudulently. This was paid into Mr S' account. He has been unable to show that he paid this money to any third party. The evidence is that he used this as part of a payment towards his credit card account. I think he was responsible for what happened on his bank account.

He has no evidence to support the background to this payment at the time. From what he says and his account statement this seemed to be the only payment of this type. It's unclear to me why his friend would need to use his account in this way, especially if that person was also involved in paying him wages. I've listened to all the calls he's had with our investigator and I agree that this unusual transaction was likely to have been more memorable even given the passage of time. And within less than a day in any event he'd come back with these details. He can't show he didn't keep this money though or what happened to it. And I agree with our investigator that what would be key would be information from that time. On his version of events the social media account through which the item was sold was closed which resulted in the person who paid the money raising a scam claim. And there is no good explanation why that person didn't get the item that Mr S had been paid for.

I can't say exactly what happened, but I need to think about what is most likely. And I'm taking into account everything Mr S has now said and whether if Barclays had disclosed the specific concern at the time things would have been different. I'm afraid that I conclude it most likely that Mr S was a witting participant at the time in this transaction and that he was fairly responsible for these fraudulently obtained funds. And I don't think that the amount involved or that he has offered to pay this back now makes any difference.

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

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

As a result, it closed his account and added the CIFAS marker. I appreciate what Mr S says about the impact for him now, but I don't have a reasonable basis to require Barclays 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 S to accept or reject my decision before 22 April 2022.

Michael Crewe
Ombudsman