

The complaint

Mr M complains that Lloyds Bank PLC ('Lloyds') closed his account and registered a Cifas marker against him without due cause.

What happened

In May and June 2020, four payments were made into Mr M's Lloyds account totalling approximately £300. The funds were removed via ATM on the same day that the last payments were received. The sending bank contacted Lloyds on 12 June 2020 to request that the funds were returned as the sender had been the victim of fraud. Lloyds blocked Mr M's account and completed a review. Following this, Lloyds made the decision to close Mr M's account with 60 days notice and to refer him to Cifas to register him on the National Fraud Database.

Mr M contacted Lloyds. He explained that his young son had asked him to use his account to receive some money as he was selling his games console online and he could not use his own account as he was having problems with it as he had previously had his account details stolen so his account had been closed. Mr M said he told his son he could use his account on this occasion, but that he would need to rectify the problems he was having with his account. He said that he noticed there were multiple payments and saw the reference was 'mattress' – a seemingly unrelated reference – so he spoke to his son to ask why this was. His son told him it was because the buyer didn't want their parents to know they had bought PlayStation games. He said he had withdrawn the funds and handed them to his son. His son told him he had no proof that he had sent the games console, as they handed it to the buyer in person.

Mr M complained to Lloyds, but they said that as he allowed his account to be used to receive and withdraw fraudulently obtained funds, the Cifas loading and account closure with notice were fair. So Mr M complained to our service.

One of our investigators reviewed what had happened. They felt the account closure was fair and reasonable as Mr M had been given 60 days notice in line with the terms and conditions of his account, so he didn't recommend that Lloyds should reopen Mr M's account or do anything further relating to this. They did recommend that the Cifas marker should be removed as they felt the evidence showed that Mr M was unlikely to have been complicit in any fraud – he genuinely believed the funds related to a legitimate sale of a games console that his son had sold. But whilst he recommended the removal, he thought that Lloyds had acted fairly in loading the marker in the first instance based on the evidence and information available to them at the time – so they didn't recommend that any payment was due from Lloyds in recognition of the distress and inconvenience Mr M had suffered as a result of the marker. He said it was only the additional supporting evidence that Mr M had sent our service that meant he was able to recommend the marker be removed – and this had not been available to Lloyds when they made and reviewed their decisions.

Lloyds agreed to our investigator's opinion of the case, and have since removed the Cifas marker.

But Mr M remained dissatisfied. He felt the bank had acted rashly in blocking and closing his account, and didn't give him the opportunity to defend himself or provide evidence in support of any defence. He explained the serious impact this had on his health, well-being, his time,

his career and his finances. He said he had also lost contact with his son as a result of this. He was pleased the Cifas marker was being removed, but he felt a fair resolution to the case would also involve:

- A formal letter of apology from Lloyds;
- For Lloyds to reopen his accounts, with new security details; and
- A substantial payment in recognition of the impact the account closure and Cifas marker had on his life.

Our investigator remained of the opinion that Lloyds had acted fairly based on the information it had at the time – so as he didn't think they had made a mistake then, his recommendations remained the same. As Mr M didn't agree, his complaint has been passed 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.

Having done so, I have reached the same conclusion as our investigator, and for broadly the same reasons.

I've considered Mr M's concerns about his accounts being blocked and closed, and Lloyds subsequent refusal to reopen them. Lloyds were quite right to place blocks on the account when they received a report that it had been used to receive fraudulent funds. This is what I would expect them to do as a regulated financial business. So I think they acted responsibly here.

Lloyds can close an account with immediate effect if they reasonably believe it is being used for fraudulent purposes. But in this case Lloyds gave Mr M 60 days notice prior to closing his account. This notice period is in line with the terms and conditions of the account, and is designed to allow customers time to organise their finances before the account is closed. So I think Lloyds acted fairly here. And I think it is for Lloyds to decide whether or not they wish to do business with Mr M in the future here, so I won't be asking them to reopen his accounts.

As both parties have agreed that the Cifas marker should be removed, and this has now been done, I will not need to decide on this matter. But I think it is important to explain that I agree with our investigator that based on the evidence and information available to Lloyds at the time they loaded the Cifas marker, and maintained that it should remain in place, Lloyds did not make a mistake. I'll explain why.

The type of Cifas marker that Lloyds asked to be applied is for 'misuse of facility' – relating to the account being used to receive and remove fraudulent funds. In order to file such a marker, they were not required to prove beyond reasonable doubt that Mr M was guilty of a fraud or financial crime, but they needed to be able to show that there were grounds for more than mere suspicion or concern. Cifas guidance says:

- *“There must be reasonable grounds to believe that an identified fraud or financial crime has been committed or attempted; [and]*
- *The evidence must be clear, relevant and rigorous such that the member could confidently report the conduct of the subject to the police.”*

So, they needed to have evidence to show that Mr M received the funds as a result of fraud, and that on balance it was most likely he had been deliberately dishonest in doing so. It is not in dispute that Mr M's account was used to receive fraudulent funds. The sending account holder was tricked into sending the funds as the result of a scam. And whilst we do

now know that Mr M was not complicit in this – I can understand why Lloyds believed he had been deliberately dishonest at the time. Mr M had withdrawn the funds from his account – by his own admission. And he had not provided them any evidence in support of his testimony that he had simply been trying to do his son a favour, and knew nothing of the provenance of these funds beyond what he'd been told. So I think Lloyds were entitled at that time to conclude that Mr M had been deliberately dishonest in the receipt and removal of those funds.

Since coming to our service, Mr M has provided considerable and detailed evidence in support of his testimony. And whilst I don't need to provide a finding on this, I will say for completeness that I do agree that the evidence suggests that Mr M was an unwitting victim in all of this – rather than someone who was deliberately dishonest and complicit in the scam. So I agree that the fair outcome in this case was for the Cifas marker to be removed.

I do appreciate that Mr M has suffered a great deal as a result of this unfortunate series of events, but I cannot say that the fault here lies with Lloyds. And so now that the Cifas marker has been removed, I cannot fairly and reasonably conclude that they must issue a formal apology letter, nor pay any money in recognition of the distress and inconvenience Mr M suffered here.

My final decision

My final decision is that as Lloyds Bank PLC have demonstrated that the Cifas marker has been removed, they are not required to do anything further in relation to this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 27 April 2022.

Katherine Jones
Ombudsman