

The complaint

Mr T complains that Lloyds Bank PLC registered a marker at CIFAS, the national fraud database.

What happened

Mr T says he was told in 2018 that money he had received into his account had been obtained fraudulently. His account was closed in 2019. In 2020 he discovered that Lloyds had added the marker when his account at a different financial business was closed. He says he is now unable to obtain an account.

Lloyds said it hadn't made a mistake. It had received a report that money paid into Mr T's account was fraudulent and had been obtained through a scam. It had spoken to Mr T about it and he wasn't able to show he was entitled to the money. So, it closed his account and added the marker. When he complained it told him that it would consider any more evidence he could provide. But it hadn't received anything.

Our investigator didn't recommend that the complaint be upheld. He said that there was a high bar for adding a CIFAS marker. Mr T had provided an explanation of how he had received this money. He said that he had lent money to ex-employees including to a specific 'friend' in 2014 who had then moved back abroad. And that four years later that person had agreed to pay him £1,000 and sent payments of £500 and £600 on 7 December 2018. Mr T said he had given his account details to a third party as he didn't have that person's number. Mr T said that when he realised the money was fraudulent he had arranged through his brother who lives abroad to report the individual to the police. He said that police had been to the house of the person, but he'd not been there.

Lloyds had said that there was no explanation why the name of the person who sent the money differed to any party Mr T had mentioned. And why a person would pay Mr T back if he wasn't able to get in touch with him. Mr T had also offered to repay the money which it said was unusual if he was the victim himself.

Our investigator said he appreciated the time that had passed but that Mr T had given him a different name of the person sending the money to the one he'd given Lloyds. He also seemed to have been inconsistent in a call with Lloyds about whether this had been reported to the police having first said he didn't know who to report this to. There was no evidence to support what Mr T said including any messages about the loan of money or the police report. What Mr T had said about his past character didn't help here. He had time to provide any evidence.

Mr T didn't agree and wanted his complaint to be reviewed. He said he'd given names of the family members of the person who owed him money too. He was still owed money. He only found out that there were two payments when he spoke to Lloyds. We hadn't taken sufficient account of what Lloyds said about the police report. There were many errors in what the investigator had said, and he'd mentioned a few. He only found out what happened in 2020 and Lloyds told him about the need for the report in 2021. He wanted time to provide this to Lloyds.

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, Lloyds 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.

I've listened to a recording of the call Mr T had with Lloyds in March 2021. I think Lloyds fairly explained its position and that it had no evidence to support what Mr T said. He gave the name of the person who sent him the money. At first he said he didn't report this to police. He then said that police had been to that person's home abroad. Lloyds said it would be helpful to have the report about that so it could see what had been done at the time.

Mr T says in an email of 3 March 2022 to this service that "*I do not remember what name I gave to Lloyd[s]*" and that he was in a panic. He says he spoke to others abroad about this money. And that the person who owed it contacted him, but Mr T didn't have his details to get back in touch. Mr T sent his account details to a third party and that person told him that the money had been deposited

Mr T hasn't provided any police report. I think that if there was an existing report he's had sufficient time to do so during our investigation. In his email of 3 March 2022, he also stated that the police had said "*they only keep in record such reports for a year*." He went onto to say that he had reported to police the third party or parties involved with arranging the money. And was told that they had been interviewed and the person who had owed him the money was now in a different country.

When he referred his complaint to this service he said he had texts about the money which he showed to Lloyds. There is no record of those now and he didn't refer to this when he spoke to Lloyds in March 2021.

I appreciate the time that has passed since the payments. And that Mr T didn't find out about the CIFAS marker until 2020. Having said that he did know about the report of fraud in 2018 linked to the individuals he names and says that some police action was taken. He's known for some time that Lloyds may look at things again with a police report. But I'm not clear whether that would have helped with our investigation in any event unless it showed that fraud by someone else has been established: an allegation by Mr T wouldn't likely be enough.

Mr T's had a reasonable time to provide evidence and I think it is fair now for me to make a decision on his complaint. The position is that I don't have anything to corroborate what he says. And the money that was sent had a reference that didn't tie up to any name he's given and was fraudulently obtained. He paid that money away from his account and so had the benefit of this. I find it *most likely* on the evidence that he reasonably knew that this money wasn't legitimately his.

Lloyds says that it applied the CIFAS marker because Mr T received fraudulent funds into his account. So, I've looked at whether Lloyds 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 Lloyds 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 T's account of events, I'm satisfied that Lloyds had sufficient evidence for the CIFAS marker to be recorded. In coming to this view, I've taken into account the following reasons:

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

So, I know I'm going to disappoint Mr T when I say that I won't be asking Lloyds to remove the CIFAS marker. I appreciate the difficulties Mr T describes about this marker for him.

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 T to accept or reject my decision before 16 June 2022.

Michael Crewe
Ombudsman