

The complaint

Ms B complains Lloyds Bank PLC unfairly closed her personal and business accounts. She also says they unfairly recorded adverse information about her which has meant she has been unable to open an account elsewhere.

What happened

Our investigator stated the background facts that led to Ms B's complaint in their view. I find no need to repeat everything they said here. But in summary:

- Ms B held an account with Lloyds.
- She applied for a business account and a bounce back loan (BBL) in June 2020. She says she operates as a sole trader and submitted the application with the help of her accountant.
- Lloyds opened the business account but then turned down the BBL. They said Ms B had applied for a business account for a different business earlier in June which had already received a bounce back loan.
- Lloyds reviewed what had happened and called Ms B to find out more. They decided to end their relationship with her and closed all the accounts she held. They also revoked the BBL which had credited the other business account..
- Ms B complained to Lloyds. She says she never applied for the previous business account or BBL and didn't know about them until Lloyds contacted her – so she was a victim of identity fraud. She had previously discussed getting a BBL with a friend, who knew someone who could help her apply for the loan on the basis that they took a cut of the loan capital. She gave them some information but when she didn't hear back from them, she became concerned. She says she told them not to proceed. She then genuinely applied for a business account and BBL, which she wouldn't have done if she already knew about the previous account and BBL.
- Ms B has been unable to get a personal account or account for her business, which is causing her financial hardship. She contacted Cifas who said no Cifas marker had been recorded against her, but she felt Lloyds must have recorded some adverse information somewhere because of the difficulties she was experiencing.

Our investigator decided not to uphold Ms B's complaint. In summary, they said:

- Lloyds were able to close her accounts and they had closed them in line with the terms of her accounts. Banks have the discretion to end their relationship with customers.

- Lloyds hadn't recorded a Cifas marker, but they had recorded a Sira 'inconsistency' marker on the National Sira database in relation to the BBL applications. The marker was visible to other firms who were members of the database.
- Ms B says she had given information to someone to apply for a BBL in her name on the basis that someone else would receive a cut of the loan. This was a questionable arrangement to initially agree, and it was unclear why Ms B didn't use her accountant to apply for a BBL in the first place if she was unsure about how to apply for a BBL. Considering the information Lloyds held they were able to record the inconsistency marker.
- Although Lloyds had recorded the inconsistency marker, there was insufficient evidence to conclude that the nature of the marker was the main reason why she hadn't been able to open an account elsewhere.

Ms B disagreed with the outcome our investigator reached. Among other things she said:

- Lloyds should have contacted her when they received the first account and BBL applications. They had not verified her identity and had they done so they would have realised her details were being used without her permission.
- She believes the inconsistency marker is preventing her opening accounts elsewhere. She has had several applications declined since it has been in place.
- She has started working as an employee and is receiving her salary into her son's account, but her employers have told her they won't continue to allow this.
- She feels the marker is preventing her moving on with her life and it has had a considerable impact on her finances and health.

Ms B asked for a final decision from an ombudsman, so her complaint has been given 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.

I've decided not to uphold Ms B's complaint.

This complaint concerns only the accounts Ms B held with Lloyds and the actions Lloyds took in relation to them. I note Ms B appears to have held an account with a bank which is part of the wider Lloyds banking group, which this complaint does not concern.

Lloyds recorded a Sira inconsistency marker and I understand why Ms B is concerned by the marker's existence. I cannot know the basis for other banks' rejecting her applications, but I acknowledge it's possible those banks subscribe to the National Sira database and following further enquires they decided not to have Ms B as a customer.

My role, however, is to only consider the decision of Lloyds and not other banks. So, I must concern myself with whether Lloyds were able to record the marker.

There is a difference between what is required for a firm like Lloyds to record a Sira marker, to the standard of proof required to convict someone of fraud or another financial crime.

Lloyds do not have to establish Ms B was guilty of fraud or a financial crime beyond a reasonable doubt.

Ms B may disagree Lloyds should be able to record a marker based on a lesser standard of proof. But the rightfulness of fraud prevention agencies and the standard of proof they require of their members would be a matter for the courts or Parliament to decide. Sira is a widely used fraud prevention service and it's existed for some time. So, I am not here to question the lawfulness of firms being able to record fraud markers in general.

I have carefully considered the standard of information Lloyds held, as well as what Ms B said, and I find Lloyds were able to record the marker. I'll explain why.

Ms B says she never knew the first business account and BBL had been applied for or that the BBL had been granted. But, having reviewed Lloyds' record of their conversation with Ms B when they contacted her in July 2020, I find it doesn't support what she is saying. Instead Lloyds' record indicates Ms B first told them she had opened both accounts. It also indicates she discussed at least in brief the nature of the business she now says she didn't know anything about.

Ms B says the conversation she had with Lloyds was very confusing, but I find it difficult to conclude Lloyds would have mistakenly recorded such specific information in regard to her responses. Instead, I find it's more likely Ms B told them something quite different to what she has told our service.

Ms B provided screenshots of parts of her conversation with the friend she says she initially discussed a BBL with. But while the conversation shows something went wrong, and the third party acted in a way she disagreed with, I don't find it shows she didn't know about the other business account or that a BBL had been applied for in the name of a fake business. And, given she has a record of part of her conversation with her friend, I would expect her to have been able to show the conversations about the BBL, and that she told them not to proceed.

Lloyds also asked Ms B about the turnover declared on the application for the business she told us she knew nothing about. It appears she told them the turnover was a projection, which again I find is unusual if she didn't know about the application. The turnover was different to the turnover stated on the application for the BBL Ms B says she did submit through her accountant. So, while it's possible she thought Lloyds were asking about the application for the business she says is hers, I doubt this was the case.

Ms B says she considered applying for a BBL through a third party so they would help her in return for a cut of the loan funds. I find it hard to conclude that Ms B wouldn't have understood that this kind of arrangement was suspect in nature. And, while I have taken on board what she has said about a medical condition she has, I am not persuaded she couldn't have easily found out how to apply for a BBL by conventional means.

I was sorry to hear about how Ms B's health has been impacted and the difficulties she is experiencing. But I cannot reasonably conclude she didn't know about the first BBL application or that an account had been set up for a fake business. So, I find Lloyds had grounds to record an inconsistency marker.

Lloyds may not have contacted Ms B before or shortly after they approved the BBL and opened the other account, but I don't find this is a strong enough reason to remove the marker based on Ms B's responses when Lloyds did contact her.. If Lloyds had contacted her earlier I'm not persuaded she would have said she didn't know anything about the

account or the BBL at that time.

Lloyds had the discretion to end their relationship with Ms B. Like other banks it has the freedom to choose its customers, just as Ms B could have decided not to bank with Lloyds. Lloyds must however close accounts in line with the terms of those accounts. I see it gave notice under the terms of the accounts but prevented Ms B from using the accounts during the notice period. In this way Lloyds were to some extent closing Ms B's accounts in a way which is equivalent to them being closed immediately.

I have carefully considered Lloyds' decision not to allow Ms B to continue to use her accounts during the notice period. And I find their actions were reasonable given the responses Ms B appears to have given when they asked her about what had happened.

My final decision

I have decided not to uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 15 June 2022.

Liam King
Ombudsman