

The complaint

Mr H has complained that Lloyds Bank PLC registered a marker against him at CIFAS, the national fraud database.

What happened

On 24 September 2020, Mr H was sent two payments: one for £500, and one for £600. He forwarded these payments on to another account of his right after.

The sending bank reported that their customer had been abducted and forced to send Mr H the payments. Mr H denies this. He says he's a self-employed mechanic in addition to his normal job. He said that the night before, on 23 September, he fixed the sender's car and they promised to pay him £500 the next morning. He said they sent him an extra £600 by mistake, and he was aware of the mistake, but he did not return it as he was busy at work. He said he didn't keep invoices or receipts for his car repair business and couldn't evidence that he had done the repairs or was entitled to the funds. He found CCTV footage showing he was at his normal job on the morning the payments were sent, which he felt proved the sender was not coerced into paying him.

Lloyds closed Mr H's account and registered a marker against him at CIFAS.

Our investigator looked into things independently and didn't uphold the complaint. They found a number of inconsistencies in Mr H's testimony, and noted that it should have been simple for Mr H to evidence that he'd repaired the car, yet there was no evidence he was entitled to the money at all. They explained that even if the CCTV showed that Mr H wasn't physically present, it didn't show that he was uninvolved as his account was used.

Mr H asked for his case to be reviewed afresh, so the complaint's 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.

In order to register this marker, Lloyds were not required to prove beyond all reasonable doubt that Mr H had done something wrong. They did need to have reasonable grounds to believe that he'd misused his account, which went beyond a suspicion or concern, and which had appropriate supporting evidence. Having carefully considered everything that both sides have said and provided, I think Lloyds did have sufficient grounds to register this marker. I'll explain why.

First, I do accept that the CCTV footage shows Mr H was at work when the payments were made. However, that does not prove that the sender was not forced into making the payments, and it does not prove that Mr H was uninvolved. After all, it is perfectly possible that Mr H had accomplices who abducted the sender, while Mr H's role was to receive and pass on the funds so they couldn't be recovered.

If these payments really were for car repairs, then it would have been very straightforward for Mr H to evidence this. That's because if Mr H were running a legitimate car repair business, he would have been required to keep invoices and receipts for tax purposes and for the proper running of his business. Yet despite being asked for this repeatedly, Mr H has not provided any proper documentary evidence to show that he actually repaired the sender's car. On the other hand, Lloyds received an official fraud report from the sending bank detailing how the sender was forced into sending Mr H the funds. This strongly suggests that Mr H was not entitled to this money.

Indeed, Mr H admits himself that he was not entitled to the £600. And he says he was told that same morning that it was a mistake. Yet instead of sending it back, he forwarded it on to another account so Lloyds couldn't recover it. Mr H claims he was unable to send it back because he was at work. But he sent it to his other account while at work, around the same time he was told it was a mistake. So he clearly was able to make transfers. Mr H also said he forwarded it on as he was concerned the funds would be frozen. But I can't see why that would concern him since he wasn't entitled to that money anyway – indeed, if Lloyds *had* taken it back, it would have saved Mr H from having to do it himself. And it appears that Mr H didn't return that money later on either, when he was no longer at work. So even by Mr H's own admission, he received money he wasn't entitled to, and not only did he *not* tell his bank it was a mistake at the time or reverse the payment, he actually sent it on such that it couldn't be returned. Indeed, Mr H acted very quickly to forward on the disputed payments, meaning Lloyds couldn't recover them. That fits well with the possibility this was fraud.

Mr H's testimony has been inconsistent at other points, too. He's given differing versions of events about things like how many people were involved, how he met the sender and whether he'd met them before, what repairs he did, and so on. I appreciate that memory can fade over time, but many of these conversations were not long after the events in question, and the contradictions have been significant. Given how inconsistent Mr H's testimony has been, it makes it very difficult for me to accept any of his versions of events as being correct.

Lastly, I've not seen any evidence that makes it seem implausible or unlikely that Mr H knowingly received the proceeds of fraud – even if I accept that he was not present himself when the sender was allegedly abducted.

In summary, Lloyds received an official fraud report from another bank. Mr H has been unable to provide any proper evidence that he was entitled to these funds, even when he was required to keep such evidence for his business, and when such evidence would have been very straightforward to get. Mr H has admitted that he was not entitled to the larger of the payments, yet he kept it and forwarded it on very quickly such that it would not be recovered. And his testimony has been inconsistent, implausible, and contradictory in places. So taking everything together, I think it's fair that Lloyds registered the appropriate marker at CIFAS. It follows that I also think it's reasonable they closed Mr H's account, which they were allowed to do under the terms and conditions.

This is a difficult message for me to give, and I know it's a difficult message for Mr H to receive. I do understand that Mr H has been going through a tough time. But given the evidence I have, and the balance of probabilities, I'm unable to reasonably reach any other conclusion.

My final decision

For the reasons I've explained, I don't uphold Mr H's complaint in this case.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 12 July 2022.

Adam Charles
Ombudsman