

The complaint

Mr S is unhappy that Lloyds Bank PLC has recorded a fraud marker against his name and won't remove it.

What happened

On 27 December 2018 Mr S received a credit of £2,180 into his current account. Lloyds received a report that this was a fraudulent credit; another person had been tricked into sending the money to Mr S' account.

Lloyds asked Mr S where the money had come from. He told the bank he'd sold a car and that the money he'd received had been from the sale.

Lloyds asked Mr S to provide evidence that he'd sold a car. But, despite being given several weeks to do so, Mr S couldn't provide anything. This led to Lloyds removing funds from his account to return to the scam victim. It also closed Mr S' account and logged a fraud marker with CIFAS, a fraud prevention agency.

Mr S has said he's since had difficulty in opening an account elsewhere and this is badly affecting his ability to find work.

He lodged a complaint with Lloyds, but it maintained its position. Mr S then brought his complaint to our service where it was considered by one of our investigators.

She didn't recommend the complaint be upheld. Mr S still couldn't provide any evidence of the sale of the car and went on to say that the money had actually come from a friend who lent it to him as he needed to pay for flights. Mr S explained the friend had told Mr S to tell him he'd sold a car if asked by the bank. He's not been able to provide any evidence of conversations with the friend, or detail of who it is.

She said that because Mr S' version of events had changed, and because he'd provided no evidence to show where the money had come from, Lloyds had acted fairly and reasonably in registering his details with CIFAS.

Mr S asked for the complaint to be reviewed by an ombudsman and so it's been passed to me.

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'm not upholding Mr S' complaint and for broadly the same reasons as the investigator. I've no doubt the CIFAS marker is causing Mr S difficulties and I can imagine he's going through a challenging time.

I also don't doubt that he has regret in doing what he did in December 2018, whatever his level of involvement might have been. But it remains the case that Lloyds have acted fairly and reasonably in recording the CIFAS marker.

In order to record a CIFAS marker for misuse of facility, as is the case here, Lloyds must be able to show a number of requirements have been met. The two most important to this case, in terms of what's at the heart of the dispute, are:

- That there are reasonable grounds to believe that a Fraud or Financial Crime has been committed or attempted;
- That the evidence must be clear, relevant and rigorous such that the member could confidently report the conduct of the Subject to the police (but there's no obligation to make that report);

I'm satisfied these criteria are met. Mr S received a fraudulent credit into his account after someone fell victim to a scam. Mr S has said he had no idea the money had come from a scam victim. But he hasn't been able to provide or evidence a reasonable explanation for the source of the funds.

Mr S first told Lloyds that he'd sold a car. He maintained this version of events for some time and following questioning from the bank. When challenged to provide evidence of the sale he said he couldn't do so. There was no mention of borrowing money from a friend.

Before Mr S' complaint was considered by this service he spoke to the bank again on several occasions. This was in May 2021 when he was taking his complaint forward. Lloyds has notes of two conversations held with Mr S. It's evident from these notes that Mr S changed his version of events:

- On 11 May 2021 Mr S said he assumed the money that had gone into his account had been from his training course and he'd gone on to spend it
- On 12 May 2021 Mr S told the bank he didn't know about the credit and spent it without realizing.

Mr S only introduced the detail that he'd borrowed money from a friend when he brought the complaint to us. The evidence doesn't show any previous mention of such a person, that Mr S needed to borrow money for flights, or that someone else had told him to lie about where the money had come from. It's also difficult to understand why Mr S would feel the need to tell the bank anything other than (what he now says) is the truth.

These shifting versions of events mean it's not possible to say with any certainty that Mr S innocently received the fraudulent funds into his account.

I've also considered the other activity on Mr S' account once the fraudulent money was received. I can see that a total of £500 was quickly withdrawn from a cash machine. There were also attempts to spend at merchants (including a sportswear store), with some of those transactions debiting the account much later. I can see no attempt to purchase flights.

These do not seem to be the actions of someone who has unknowingly received money into their account. Instead it suggests attempts to spend the funds as quickly as possible. And even with this spending Mr S' version of events has differed. At times he's said he carried out the transactions, at others that it was the friend who had lent him the money.

It's not possible for me to determine exactly what's happened here and it's not necessary for me to do so. Having considered all the available evidence, I'm satisfied Lloyds has acted fairly and reasonably in maintaining the CIFAS marker.

My final decision

I don't 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 16 June 2022.

Ben Murray
Ombudsman