

The complaint

Mr S complains that Barclays Bank UK PLC closed his account and added a marker at CIFAS, the national fraud database.

What happened

Barclays said it hadn't made a mistake. It had received a report that a payment into the account of Mr S was fraudulently obtained. And it was required to report this to CIFAS.

Our investigator didn't recommend that the complaint be upheld. She said that Barclays has received a notification on 20 February 2017 that a £600 payment into Mr S' account had been fraudulent. The majority of the funds had been withdrawn. Although Mr S said that he had sold a phone to a friend for £700 to £750 he didn't have any evidence for that. He said that his friend no longer lived in this country and he hasn't reported this to police. Barclays closed his account in line with the terms and conditions and had grounds to add the marker.

Mr S didn't agree and wanted his complaint to be reviewed. He said that Barclays has never explained why his account was closed or asked him for proof of funds. It was quite unfair to require him to prove this now. All Barclays had told him was that his account was under investigation. This marker is having a severe effect on him.

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, Barclays 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.

What this means in practice is that a bank must first be able to show that fraudulent funds have entered the consumer's account, whether they are retained or pass through the account. Secondly, the bank will need to have strong evidence to show that the consumer was deliberately dishonest in receiving the fraudulent payment and knew it was, or might be, an illegitimate payment. This can include allowing someone else to use their account in order to receive an illegitimate payment. But a marker shouldn't be registered against someone who was unwitting; there should be enough evidence to show deliberate complicity.

I've seen the report from another financial business about this payment which states that it has been fraudulently obtained. There is no evidence that Mr S was asked about this at the time as he says. I need to consider carefully whether that would have made a difference taking into account the time that has now passed.

Mr S says he sold a phone to a friend. The name of the person sending the money shown in the narrative on his bank account wasn't the same as the one he's given for that friend. And

nor does the amount tie up to what he'd said. He reasonably knew the money had been credited with that narrative because he withdrew £300 that same day. He says that there was limited if any documentation about this at the time. He doesn't refer to any dispute with that person at the time over the purchase. Or give any reason why the person would have claimed that this was fraud.

He was able to access part but not all of these funds and so on what he says he lost money. He didn't pursue this further at the time even when he was told his account would be closed. So, while I accept that it would be more difficult to prove things now I don't on balance find his version of what happened to be a plausible one. And so, I find it most likely that he was deliberately complicit in what happened.

Barclays says that it applied the CIFAS marker because Mr S received fraudulent funds into his account. So, I've looked at whether it 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 Barclays 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 S' account of events, I'm satisfied that Barclays had sufficient evidence for the CIFAS marker to be recorded. In coming to this view, I've taken into account the following reasons:

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

I consider that Barclays was entitled to decide to close his account and it wouldn't have needed to give him a reason in its letter. I appreciate what he says about the impact of the marker, but I don't have a reasonable basis to require it to do anything further.

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 S to accept or reject my decision before 19 August 2022.

Michael Crewe

Ombudsman