

The complaint

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

What happened

Mr T opened several accounts with Lloyds. He later received over £2,000 across a number of payments. He transferred this money between his accounts and spent the bulk of it in a large cash withdrawal and a large debit card transaction. This money was then found to be the proceeds of fraud.

Mr T said he was entitled to these funds as they'd come from a friend of a friend who he'd never met, but had been talking to online. He said this person had been helping him trade in cryptocurrency. Mr T said they asked him to receive the money, withdraw it in cash, and send it back to them – though Mr T didn't have a way of sending cash to this friend as they'd never met in person, and he said he didn't know how he was going to send it on. Mr T kept the money even after he found out it came from a victim of fraud. He was unable to explain why he didn't send it back to the victim. He was unable to provide any evidence at all that this friend of a friend existed, nor evidence of what they'd spoken about.

Lloyds closed Mr T's accounts and registered a marker against him at CIFAS.

Our adjudicator looked into things independently and didn't uphold the complaint. Mr T asked for a final decision, 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 T 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.

The funds which Mr T received did not come from a friend, but from a victim of fraud. Mr T then benefitted from the proceeds of the fraud.

Mr T told Lloyds he was entitled to the money, but he's not been able to evidence this. Indeed, he's not been able to provide any substantial evidence to support his version of events at all. There's nothing which substantiates what he's said about this friend of a friend, or what this person told him. And Mr T says he'd been speaking to them online. So it would have been relatively straightforward for Mr T to show what was said, such as through message histories, emails, and so on. Yet he's not done so and says he can't do so. That makes it very difficult to support what he says happened.

Further, the payments Mr T received were not from an account in the name of the friend of a friend, nor anyone else he knew. And their reference was for bills, not anything to do with cryptocurrency trading. So it should have been clear to Mr T that this was not money he was entitled to. Yet he acted quickly to move it on and spend the bulk of it, in such a way that Lloyds could not recover most of the money for the victim.

Indeed, if Mr T had thought he'd been sent the money to buy cryptocurrency, then it doesn't make sense why he'd withdraw it in cash and make a large high-street purchase. I can see that he had made cryptocurrency payments in the past, so he knew how to do so, and he would've known that a cash withdrawal and high-street purchase is not the way to do it.

Similarly, Mr T says he thought the friend of a friend had sent him the money in order that Mr T would pass it back to them. But that doesn't make sense either – there would've been no point in sending Mr T money just so Mr T could pass it back to the same person. And since Mr T only knew this person online, he had no way of passing physical cash to them, and certainly no way of passing on a debit card purchase.

Then even once Mr T knew that the money was not due to him, and that it came from the victim of a crime, he still chose to keep it. He even asked Lloyds to let him have the rest of the fraudulent funds left in his account, before they passed it back to the victim. And Mr T still had the cash he'd withdrawn with him, so he could have easily returned it to the victim, or passed it back to Lloyds and let Lloyds sort it out for him. But instead, he chose to keep the victim's money for himself.

In summary, Mr T received the confirmed proceeds of fraud. He forwarded this money to a spending account and withdrew it, such that Lloyds could not recover the bulk of it. He then kept the victim's money for himself and chose not to return it, even once he knew it was the proceeds of crime and even when the money was still available. He's not been able to provide any evidence that he was entitled to the funds, nor any evidence to back up his testimony, even when such evidence would be straightforward to get. His testimony has been unlikely and implausible. And I've not seen any evidence which makes me think that Mr T was an unwitting participant in the fraud. Based on the evidence, circumstances, and the balance of probabilities, it is most likely that Mr T deliberately misused his accounts.

On that basis, I think it was fair that Lloyds closed Mr T's accounts and registered the appropriate marker at CIFAS. This is a difficult message for me to give, and I know it's a difficult message for Mr T to receive. 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 T's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 29 November 2022.

Adam Charles
Ombudsman