

## **The complaint**

Miss T, helped by a representative, complained because Lloyds Bank plc refused to delete all the records it had about her.

## **What happened**

An account in Miss T's name was opened in June 2020. It was used to receive a number of payments, which were then paid to a cryptocurrency organisation. Lloyds was then told that some of the money paid in had been fraudulent. So it closed the account in Miss T's name, and recorded a marker against her on the anti-fraud database CIFAS.

A representative acting for Miss T told Lloyds about Miss T's medical circumstances. She said that Miss T hadn't been well at the time, and had no memory of having opened the account. Miss T's representative sent Lloyds an official medical record about Miss T, including that she'd been in hospital on a number of occasions, including from July to August 2020. Miss T hadn't been in hospital when the account was opened, but she'd been very unwell, and she had been in hospital at the time when the fraudulent funds were received, and when the payment out was sent to the cryptocurrency organisation.

After receiving this information, Lloyds arranged to remove the CIFAS marker against Miss T's name.

But Lloyds told Miss T's representative that the Lloyds group would keep details on its systems. It warned that this meant it might be difficult for Miss T to open accounts with any of the brands within the Lloyds group if she wanted to do so in future.

Miss T's representative wasn't satisfied, and complained to this service, about Lloyds and about two other financial organisations where there had been similar events. This decision relates solely to the complaint about Lloyds.

Miss T's representative explained that Miss T was still subject to medical reviews. But Miss T had previously considered going into the property rental business, and didn't want to jeopardise either this, or her chances of getting a mortgage in future. So Miss T's representative was concerned about Lloyds' statement that it would keep records of what had happened, and that it might be difficult for Miss T to open accounts with any of the Lloyds group organisations in future.

Our investigator didn't uphold Miss T's complaint. She said she thought it was reasonable for Lloyds to keep the information in line with its processes. She also explained to Miss T's representative that if she'd like more information about what data could be stored by businesses, she could contact the Information Commissioner's Office (ICO).

The investigator explained that although Miss T had been used by fraudsters, it had been demonstrated that the account was a risk to Lloyds. And in line with its obligations, Lloyds had to keep a record of past risks, in order to prevent future instances of fraud. And although she didn't believe Miss T would be a risk to the bank herself, deleting the details would also mean deleting information about the fraudsters – such as where the payments were sent to

and from, contact and application information etc. The investigator didn't think that not having access to Lloyds group products and services would prevent Miss T from getting a mortgage with other providers.

Miss T's representative didn't agree. She said that the purpose of the appeal was to clear Miss T's name. Miss T had been coerced into opening the account when she was mentally ill, and had been the victim of ruthless criminals. She said that she understood Lloyds wanted to keep a record of the criminal activity. But as Miss T hadn't been party to it, she asked if Miss T's name could be removed so that she wouldn't be associated with it, and so that she'd be able to apply for any Lloyds group financial products in future. Miss T's representative explained that with the help of charities and Miss T's mental health team, Miss T was trying to get her life back on track, and not having access to any bank account was hampering her ability to live day-to-day.

The investigator explained that no-one doubted Miss T was a victim in this situation. But Lloyds couldn't just delete Miss T's personal information without deleting information it needed to retain. Lloyds wasn't preventing Miss T having access to any bank account, just its own products. The investigator explained that if other banks had left external markers (e.g. CIFAS) on Miss T's name, this would have a greater impact than Lloyds not deleting the details from its internal records.

Miss T's representative asked for an ombudsman's decision.

### **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.

First, I'm very sorry to hear that Miss T was a victim of fraud, and that her identity was used in this way. I don't doubt that she was the victim here, and it must be very difficult for her and those around her.

I'll first explain what this service can consider, and what the Information Commissioner's Office (ICO) can consider:

- The ICO regulates compliance to data protection laws in the UK. It has a number of powers including the power to order businesses to comply with data protection laws. Only the ICO can determine whether or not an organisation has broken data protection laws. There are time limits which Miss T's representative will need to check with ICO if she wishes to contact it.
- This service can't act in place of the ICO, or make a finding about whether or not a business has broken data protection laws. But we can look at what's fair and reasonable in all the circumstances of a dispute. Here, the complaint arises from the fact that Lloyds has continued to hold information about Miss T and the situation in relation to the fraud – and that's ancillary to the provision of banking services. So we can consider this.

I've gone on to look at whether Lloyds acted fairly and reasonably when it decided not to delete Miss T's details. I realise this will be distressing to Miss T and her representative, but I find that it did act fairly and reasonably. That's because banks have a key responsibility to avoid and prevent fraud. They need to ensure robust systems are in place for monitoring accounts and detecting potentially fraudulent transactions and instructions. I can quite see Miss T's representative's point, when she asked for Miss T's details to be removed so that only the account details were retained. But unfortunately the fraudsters have Miss T's

personal details too, which means that it's reasonable that Lloyds wishes to retain these, in order to pick up on any future attempt to use them.

I do understand that this is distressing to Miss T and her representative, and I'm sorry for that. But I agree with the investigator that although Lloyds has said this may cause problems in future if Miss T wishes to open an account with the Lloyds group, the bigger problem for Miss T was the CIFAS marking. Lloyds removed its category 6, "Misuse of facility", CIFAS marking, which would otherwise have stayed on this anti-fraud database for seven years. The CIFAS database is checked by many CIFAS-member financial organisations, so a marker on that would be potentially much more restrictive for Miss T's future activities.

Given the importance of fraud prevention and the circumstances here, I don't uphold Miss T's complaint.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss T to accept or reject my decision before 20 January 2023.

Belinda Knight  
**Ombudsman**