

The complaint

Mr M complains that Barclays Bank UK PLC registered a marker at CIFAS, the national fraud database.

What happened

Mr M explains that his account at Barclays was closed in January 2019 and that since then he found out that the marker had been registered. He says this is affecting his ability to access an account elsewhere and has led to financial difficulty and health issues for him.

Barclays said that it wouldn't be removing the marker. Between 27 November and 13 December 2018, Mr M had received 14 payments into his account which totalled £5,450. These had been reported as fraudulently obtained and all the money had been taken out.

Our adjudicator didn't recommend that the complaint be upheld. She said that there is a high bar for registering a marker. Here there were clear reports of fraud on Mr M's account.

Mr M had explained that following a bereavement and the loss of his job in May to June 2018, he had moved into shared accommodation. He had a partner and was unsure if she had access to his account online. He said that the post for the accommodation was all received at reception and could have been intercepted. And that other people could come into his room and he left his debit card there with the PIN written on the back. He said that he didn't need to view his account online as he only received benefits and he didn't recall if he saw statements.

Our adjudicator noted that on 5 November 2018, Mr M had visited a branch to query a charge which was refunded. So, she thought Mr M had access to his account at the time. Some of the withdrawals of fraudulent funds were made at an 'ASD' machine and so required his date of birth as verification. She didn't think it likely that if Mr M's card had been lying around and someone took it there'd be money left in his account as happened here. And there was no explanation why this only seemed to happen when fraudulent funds had been received into his account. She thought he was aware of the payments.

Mr M didn't agree. He said he thought more investigation should have taken place including of CCTV evidence and if this wasn't available he didn't think that this should be held against him. He was at shared accommodation and there was a risk of his information being discovered. He wanted things investigated by police and considered by a court as he was being accused of fraud. And he emphasised that he can't get other than a prepaid account and the marker is affecting him financially. It has also had a serious impact on his mental health.

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 set out that this service provides informal dispute resolution and we aren't a court.

I'll be thinking about what is *most likely* taking into account what Barclays and Mr M have said and provided.

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.

Barclays has provided evidence of the reports of the fraudulent payments into Mr M's account. And I can see that these were withdrawn on the day of receipt. This took place during a period when Mr M was using his account for genuine transactions and making undisputed card payments himself. I'm struggling to see why he'd leave his card and PIN in his room as he says given he knew others had access. But on his version of events someone would have needed to take and replace his card without him knowing. And to be able to anticipate and know when these funds were due. As our investigator's pointed out Mr M did seem to be able to monitor his account at around this time. If he'd allowed someone else access to his account - for example an ex-partner - then he'd also be reasonably responsible for how that person used his account. And even if CCTV had been available it often doesn't help resolve if a person shown is acting with authority or not.

This account seemed to be Mr M's main one and Barclays has no record of him querying his account closure at the time. When he spoke to Barclays in June 2022 he seemed to already say he knew that the account activity was undertaken by a partner, but he's been less clear about that now and has no evidence to support what he says.

Having considered all these factors I'm not persuaded that Mr M didn't reasonably know about the use of his account in this way and I conclude it most likely that he was a witting participant in what happened.

Barclays says that it applied the CIFAS marker because Mr M received fraudulent funds into his account. So, I've looked at whether Barclays 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 M's account of events and the evidence he has provided, 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 M 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 M had used fraudulently obtained funds based on the evidence it had.

I'm satisfied that it also acted in line with the terms and conditions in closing the account. I understand the difficulties Mr M describes as a result but I'm afraid I don't have a reasonable basis to require Barclays to do anything further. If he doesn't accept my decision he remains free to pursue this matter in court subject to any relevant time limits.

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 M to accept or reject my decision before 31 January 2023.

Michael Crewe
Ombudsman