

The complaint

Mr M complains that Barclays Bank UK PLC added a marker about him at CIFAS having closed his account.

What happened

Mr M says that there was no fraudulent activity carried out on his account. And so, Barclays didn't have a basis to close it or add the marker which is having an adverse effect on him.

Barclays said it hadn't made a mistake. It had concerns about the operation of Mr M's account and had made a decision to close the account. It had added the marker and released the remaining funds.

Our adjudicator didn't recommend that the complaint be upheld. She said that Barclays asked Mr M about a credit of £2,500 he had received into his account. He'd told her that he'd gone into a branch with the person that sent him the money. And had explained that he was selling a car. He didn't have any documentation to support that - for example a logbook - as this sale didn't go ahead and it was a 'word of mouth' arrangement. She referred also to a report of a fraudulent payment into Mr M's account that Barclays had received on 29 June 2022. Taking into account all the information she considered it had grounds to close the account and add the marker.

Mr M didn't agree and wanted his complaint to be reviewed. He was very unhappy at the suggestion he'd purposefully misused his account. He only had the account for a year and had used this at university and he wouldn't have jeopardised everything for £2,500. He no longer cared to have this account service from Barclays. But he is an accounting graduate, and a credit check would be required for a job and his chances were being ruined. Mr M insisted that he was the victim here and he was trying to sell a car to a friend and didn't know what sort of evidence he could provide. The logbook would have been relevant if the transaction had completed, and he had no texts or other information about this.

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.

Through our adjudicator I asked Barclays for some more information about this case. It told me that there were two payments relevant here. There was the one for £2,500 that Mr M received on 31 May 2022 and which it had asked him questions about. It hadn't been satisfied with what he'd said and had closed his account. It had held the money for a period but released it to him in a branch on 27 June 2022. And then on 29 June 2022 it had received a report that a different payment of £2,500 that he'd received on 24 April 2022 had been reported as fraudulent. Mr M had withdrawn that money at the time. It couldn't then contact him about this, and it added the marker. Mr M had pursued a complaint and as a resolution it had told him he could have a payment of £250 refunded. That was an error both in terms of the amount because it was referring to the payment of £2,500 on 31 May 2022 and as Mr M had already been paid this. He went into a branch on 27 October 2022 and was

given this money again in error. I asked that this latter point be double checked, and I saw clear evidence of this from the branch involved.

I asked our adjudicator to contact Mr M to say that I intended to rely on this information and for any comments about him having a further £2,500. And to allow him to provide any explanation about the payment he'd received in April 2022. He was given the narrative about this that showed on his statement at the time.

Mr M responded to state that Barclays had told him that it owed him £250 as compensation for his account being closed. And that when he was in a branch he was told by a manager that it was £2,500 and he relied on that as he says others would. Mr M said he didn't recall any fraudulent transaction in the name on his statement. And how this could arise after the account had closed. This was over a year ago and it was probably a friend who'd asked him to receive money. He said that the amount isn't significant in relation to the entries on his statement. He said that he has always worked for his money, and he emphasised again the personal impact of the marker.

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. The evidence must be clear, relevant and rigorous.

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.

To meet the standard of proof required to register a CIFAS marker, the bank must carry out checks of sufficient depth and retain records of these checks. This should include giving the account holder the opportunity to explain the activity on their account in order to understand their level of knowledge and intention.

I appreciate the potential for confusion about the two payments in question here. I take into account that Barclays had concerns about the credit of £2,500 on 31 May 2022 despite the information Mr M had provided. It made a decision to restrict and then close his account. It also received a third-party fraud report about an earlier credit that Mr M had the benefit of. And it relied on this when adding the CIFAS marker.

I note that in the final response to Mr M Barclays stated that it didn't uphold his complaint about the closure of the account. It went on to say that *"There are some discrepancies with the funds paid into your accounts: as a result, £250.00 has been removed from your accounts and is being held in one of our sundry accounts...you can have access to the total amount of £250.00 in branch..."*

I can't know what he was told in branch. And Barclays accepts it made a mistake both in what it said in the final response about the refund and in paying him £2,500. I don't think on balance Mr M could reasonably think that this was compensation.

Mr M hasn't been able to explain the credit of £2500 on 29 April 2022 any further and I think he's fairly responsible for what happens on his account taking into account too the significant amount. I note that the statement narrative relating to this payment had what

appeared to be a business name and then Mr M's name- and this detail had been provided to him. I appreciate that the report about this payment being fraudulent came after his account was closed but it is still something that Barclays can take into account. And alongside the payment that it asked him specific questions about. I take all the information together in thinking about the reliability of what he says and what money he has been entitled to. I find it most likely he has been complicit in the receipt of fraudulently obtained funds.

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. 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 and money he wasn't entitled to based on the evidence it had.

In the circumstances Barclays closed his account under the terms and conditions and in any event Mr M has now said he doesn't want an account. I've considered what he's said about the impact of the marker, but I'm afraid I don't have a basis to require Barclays to do anything more.

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 21 June 2023.

Michael Crewe
Ombudsman