

The complaint

Mr K has complained that The Royal Bank of Scotland Plc registered a marker against him at CIFAS, the national fraud database.

What happened

In 2018, Mr K received over £600,000 from his workplace, which was reported as being from inception fraud. Mr K tried to spend around £55,000 of this in branch, claiming that the money had come from his business account. But he couldn't prove he was entitled to the money, so the branch stopped him. His workplace got the payment reversed. RBS closed Mr K's account and registered a marker against him at CIFAS.

Mr K says he was expecting a commission payment of around £3,000 from his workplace, and they must have sent him the £600,000 or so by accident. He says this was their mistake and he didn't commit fraud.

Our adjudicator looked into things independently and didn't uphold the complaint. They found that Mr K had tried to spend money he would've known was not his. Mr K appealed.

Since then, Mr K complained to CIFAS directly, and CIFAS got confirmation from his workplace that they'd sent the payment in error. So the marker got removed. Mr K feels this means that RBS were wrong. He's asked for compensation, saying the marker caused him about £30,000 of losses.

The complaint's been passed to me to decide.

I sent Mr K and RBS a provisional decision on 21 March 2023, to explain why I didn't think the complaint should be upheld. In that decision, I said:

In order to register this marker, RBS were not required to prove beyond all reasonable doubt that Mr K 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 currently think RBS did have sufficient grounds to register this marker. I'll explain why.

Mr K was only expecting to receive around £3,000, so he would've known that the amount of over £600,000 that he received was not actually his to spend. Those are two incredibly different amounts. In addition, I can see that his workplace emailed him to confirm it was an error and to ask for the money back, so he had extra confirmation that the money wasn't his.

Yet, following that, Mr K tried to spend around £55,000 of this money by attempting to withdraw it in cash or transfer it internationally.

Mr K's balance before this was around £200, and he was only expecting to get about £3,000 from work. So he knew that he was not entitled to this £55,000 or so, and that it was not his to spend. But he tried to spend it anyway.

I find that Mr K misused his account, as he tried to spend someone else's money, which he reasonably knew wasn't his and knew should not have been in his account. It's also recorded that he tried to claim the money was his and came from his own business. These sorts of actions are considered fraudulent. I find that a CIFAS marker was justified here.

Mr K is very fortunate that RBS and CIFAS have removed this marker. I would not have told them to remove it. I find that RBS were entitled to register a marker, and that they would have been entitled to keep it registered for its full term.

As I have found that the marker was fair, and that RBS were correct to register a marker here, I therefore do not plan to award any compensation for the effects of the marker.

I said I'd consider anything else anyone wanted to give me – so long as I received it by 4 April 2023. RBS had nothing further to add. Mr K added some further comments, which I'll talk about below.

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.

Mr K said he never tried to spend £55,000 and claimed RBS were lying. He said his account wasn't able to make those kinds of payments. But I can see from the records from the branch that Mr K nevertheless did *try* to make those payments and was prevented from doing so. The record of the conversation also states that Mr K tried to fraudulently claim that the funds were actually his.

Mr K reiterated that CIFAS had chosen to remove the marker. I am aware of this and I do understand his point. But for the reasons I explained in my provisional decision above, I do not agree that the marker needed to be removed.

Mr K explained that he felt hurt that I wouldn't have removed the marker. While I'm sorry to hear about his feelings, I can reassure him that we don't look at things on a personal basis, but independently. And based on an independent assessment of the case, I have found that this marker was added fairly and did not need to be removed. So I do not require RBS to pay any compensation for any effects the marker may have had.

So having reconsidered the case, I've come to the same conclusion as before, and for the same reasons as set out in my provisional decision above.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 2 May 2023.

Adam Charles
Ombudsman