

The complaint

Mr M on behalf of P (a limited company) complains that Barclays Bank Plc has treated it unfairly in relation to information it has recorded against it.

While this is P's complaint, for ease of read I will mostly refer to its representative and director, Mr M.

What happened

I issued my provisional decision on P's complaint. I invited both parties to let me have any further evidence and comments by 13 April 2023. I have set out below what I said.

What happened

P applied for a commercial credit card on 6 May 2021 however the application was declined. He looked into this and noted there was a marker recorded with CIFAS (a national fraud prevention database). He got that marker removed in July 2021. But noted that Barclays had also recorded a 'Refer' marker with National Hunter (another fraud prevention database) as a result of the credit card application P had made.

Mr M tried to get this marker removed because he didn't think it should have been put there however he says that Barclays wouldn't engage with him. He says that what was a fairly straight forward matter became bigger than it needed to, causing hardship both for him personally and P. He told Barclays that a re-examination of his credit file and CIFAS records should now highlight the marker was a mistake as everything else was 'pristine'.

Barclays said that another application could be submitted in six-months but an appeal in relation to the original application was now out of time. Mr M escalated this as a complaint because he didn't think this resolved things insofar as the marker was concerned. He also referred the complaint to us and explained he'd been the victim of identity fraud in the past and connected to that had been an adverse fraud marker with CIFAS that had been put there in 2019.

Barclays said that it had declined P's application and recorded the marker with National Hunter based on the category 6 marker (a misuse of facility) that its searches had returned. So, it didn't believe it had made an error. It said Mr M had told it that the category 6 marker was a mistake, but it hadn't seen anything to support this.

One of our investigators looked into the complaint and recommended it be upheld. In summary, he said, Barclays should remove the marker it had placed with National Hunter because he'd seen evidence that the marker with CIFAS was a 'protective registration'. He said this and other evidence supplied by Mr M supported he had been the victim of identity fraud where a category 6 marker had been placed previously but shouldn't have been. He sent Barclays a copy of this information to review and recommended it review the approach it had taken. But he told P he wouldn't be awarding any compensation because it hadn't been declined for credit because of the marker on National Hunter.

Mr M responded to say that while Barclays may remove the marker against P, he was concerned that it wouldn't do so against him personally and the record had named him as P's director.

The investigator explained that in removing the entry against P he was satisfied this would remove the whole record, including reference to Mr M as a director. Mr M didn't accept this, including some of the other observations the investigator had made. He said, P hadn't applied for further credit for fear of being declined because of Barclays entry. This was a consequence of its actions and a detriment which needed to be considered when assessing the complaint and compensation.

Our investigator didn't change his mind – he didn't think any inconvenience P experienced was material to warrant an award of compensation. He went onto explain that Mr M's own complaint wasn't within the scope of our jurisdiction because P was the eligible complainant under our rules and not Mr M. Mr M disagreed – he said this situation with Barclays had affected him personally.

P asked that the case be passed to an ombudsman for review.

Barclays didn't respond to the investigator's view.

What I've provisionally 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.

P's complaint

In its submissions to us Barclays said that it declined Ps' application because of a category 6 marker. I've reviewed the CIFAS report Mr M has provided from July 2021 and the filing related to a "protective registration" made on 22 October 2019. The relevant extract on the report goes onto say this:

"Protective registration – victims of a fraud or crime who suffer the loss or theft of personal identification details may seek to have their identification details registered with Cifas or this could be registered by organisations following a data breach. Protective Registrations are not records of actual or attempted fraud, but act as a precautionary measures for individuals who believe their identity details are at risk."

Mr M also provided information from a third party's legal department from August 2021 confirming it had previously recorded a category 6 marker back in 2019, but acknowledged it shouldn't have and that Mr P had placed a protective registration around the same time because he'd been a victim rather than perpetrator in relation to what had happened. This information was also sent to Barclays.

Having reviewed things, I asked Barclays a number of months ago to provide some further information but despite multiple chasers and escalations, it hasn't responded. Nor did it choose to respond to the investigator opinion letter. This is extremely disappointing and adds weight to P's testimony on the inconvenience it experienced in trying to get this matter resolved, without proper engagement from the bank. Based on the available evidence, I agree with the view our investigator took, which is I'm not persuaded there's a valid and proper basis for the bank to maintain the marker with National Hunter and so it should be remove. It follows that I intend to require Barclays to take steps to delete this record in its entirety. But I will also require it to pay compensation to P for the inconvenience caused and I will say more about this below.

I've considered what Mr M has said about the impact this had on P. He says that the business was effectively "paralysed", meaning it was too scared to apply for credit for fear of being rejected. I can, in certain circumstances, require a bank to pay compensation for actual or prospective loss. But to do so I need to be satisfied not just that such losses were possible, but that they were reasonably likely to be incurred. Looking at what has been provided in this respect, I find there's insufficient evidence in support of such a claim.

P is a legal entity rather than a natural person. As such, it can't suffer distress. Nevertheless, it can be caused inconvenience by the bank's actions. And that's what's happened here.

Having looked at everything, I can see that the original issue and Barclays lack of engagement to resolve this once further information was provided has exacerbated the initial inconvenience caused to P. Barclays should have listened to what P was saying and looked at the marker - it had several opportunities to review its approach to this. Having weighed things up, I intend to require Barclays to pay £400 for the impact this has had. I think this would be a fair and reasonable way to resolve the complaint in addition to the deletion.

I provisionally decided that I would uphold P's complaint and require Barclays to:

- delete in its entirety the marker on the National Hunter database in relation to P; and
- pay P £400 for the inconvenience caused.

Mr M responded on behalf of P to say that he didn't have anything material to add though he would like a letter from Barclays to confirm it had dealt with the marker on National Hunter and he was happy for me to only consider P's complaint.

Barclays responded to say that it accepted my provisional decision. It said it had added an entry to say 'clear' rather than 'suspicious' and it would pay the compensation to P by cheque if P could provide an address for it. I asked Barclays why it couldn't delete the record and only mark it as clear. It said, it didn't have capability to delete a record with National Hunter though it's fraud department could raise this in specific circumstances. Overall, it didn't think the entry as it stood now, as 'clear' and as a genuine application would cause P any problems as a result of Barclays actions.

It said it would pay the £400 compensation to P if an address could be provided.

In addition to this, Barclays mentioned there was another entry on National Hunter though not one it had recorded. I asked our investigator to let Mr M know about this. Mr M responded to say that he didn't believe there was a separate entry by another business. Rather, the entry Barclays had recorded against P, referenced him as director so these were two entries/submissions.

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.

My findings on P's complaint

For the avoidance of doubt my final findings here only relate to P's complaint.

Barclays mentioned there was another entry but not one it had recorded. I arranged for this information to be passed to Mr M so that he could look into this separately if he so wished. Mr M says that he doesn't believe there is another entry by someone else. He's pointed to

the National Hunter entry he obtained at the start of his complaint and feels this is two entries and both by Barclays. I have reviewed the information. The entry comprises two pages (1 of 2 and 2 of 2) but is a single submission relating to a single applicant, P. Barclays has also confirmed this.

Moving on, I remain of the view that Barclays failed to treat P fairly once it was presented with further information. Given neither party has provided anything persuasive to dispute my provisional conclusions on P's complaint, I adopt my provisional decision in full as part of this final decision. Though I do need to address how Barclays should put things right.

I appreciate Barclays has taken steps to mark the entry as clear of any fraud markers but I had required it be deleted in order to resolve the complaint and I haven't changed my mind on that. I've not seen anything persuasive to say it's impossible to delete the record and as such that's what I will be requiring. Any initial adverse information loaded with CIFAS that Barclays said it relied on shouldn't have been there according to the third-party evidence I considered. So, I think looking at all the circumstances, it's reasonable Barclays deletes the National Hunter marker in order to bring this complaint to a satisfactory resolution that's fair.

P has requested a letter to confirm the actions Barclays will take in relation to National Hunter. There's no reason why Barclays can't send P a letter confirming what steps it's taken in relation to National Hunter as part of the overall settlement to resolve the complaint (as directed and once this has been carried out). Our investigator will also provide Barclays with an address of where to send P its cheque.

In closing, this now brings to an end what our service can do to assist P.

My final decision

My final decision is that I uphold this complaint and require Barclays Bank Plc to:

- delete the whole submission it made on the National Hunter database in relation to P;
- send P a letter to confirm the steps it's taken in relation to the deletion on National Hunter; and
- pay P £400 for the inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask P to accept or reject my decision before 28 June 2023.

Sarita Taylor
Ombudsman