

The complaint

Mr O has complained that Starling Bank Limited registered a marker against him at CIFAS, the national fraud database.

What happened

In 2020, Mr O opened an account with Starling. He received and transferred on various sums of money. Starling received a report that he'd received and passed on fraudulent funds – particularly, a payment of £4,000.

Starling queried things with Mr O. Mr O explained he was receiving money for a start-up business, where he was either buying beauty products for his salon, or selling products to other salons, or was providing logistics for delivering products, or was raising capital. He said the payment in dispute was either for consulting work he'd done, or it was a deposit for the business. He provided an extract from a contract with a limited company that does not appear to be genuine. He was unable to provide any other proof he was entitled to the money. Mr O said he was unaware of the source of the funds – to him this was just a start-up that failed, and he said he gave refunds to all his investors.

Starling also received a separate report that a fraudster had tried to get their victim to pay money to Mr O's account.

Starling closed Mr O's account and registered a marker at CIFAS.

Our adjudicator looked into things independently and didn't uphold the complaint. Mr O didn't agree, so the complaint's been passed to me to decide.

I sent Mr O and Starling a provisional decision on 29 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, Starling were not required to prove beyond all reasonable doubt that Mr O 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 Starling did have sufficient grounds to register this marker. I'll explain why.

Starling received an official report from another institution that the money Mr O received did not come from beauty products or a genuine business, but from the proceeds of fraud.

Mr O hasn't been able to show he was entitled to this money. He provided an extract from his limited company's contract, though not the full contract. And the contract does not seem genuine. His limited company is not on Companies House and does not appear to be legitimate. Starling also pointed out that under Mr O's type of visa, he wouldn't be allowed to run a business.

We asked Mr O for evidence to help him support his testimony and show he was entitled to these funds. For example, we asked him for his company's official documents, documents showing he was allowed to run a business in the UK, receipts for the goods he said he purchased, invoices and correspondence with buyers for the goods he said he sold, evidence of the funding activity he said he was hired for, and evidence of the refunds he said he'd given to investors. At present, Mr O has not provided any of this information.

So Mr O received fraudulent funds that he's not yet evidenced he was entitled to. And I'm afraid I do need to point out that his testimony has been contradictory. For example, at different points he's said very different things about what this business was, what he was doing, and what the disputed payment was for. This makes it very difficult for me to take any of his versions of events as being correct.

Mr O's Starling account was used for little other than receiving and transferring on funds. The account which sent him the disputed money was similar. This would be very unusual if these were genuine business accounts – I'd expect there to be substantial business activity rather than just moving on money. But it fits very well with the possibility that Mr O was acting as a money mule.

Importantly, Starling also received another report that someone tried to defraud another customer, and they tried to get that customer to pay their money to Mr O. That wouldn't make sense if Mr O was running a genuine business account. But again, it fits very well with the possibility that Mr O was receiving and passing on fraudulent funds.

Lastly, I've not seen any evidence that makes it seem implausible or unlikely that Mr O could've knowingly and willingly received and passed on the proceeds of fraud.

In summary, Mr O received and passed on funds that were confirmed as fraudulent. He's not been able to evidence he was entitled to the money, when there should be lots of evidence he could provide if this were a legitimate business. His business does not appear to be genuine. His testimony has been contradictory and unreliable. His account activity is consistent with that of a money mule. And there was a further report that more fraudulent funds were attempted to be passed to Mr O.

So it seems reasonable that Starling registered the appropriate marker at CIFAS. It follows that I also think it was reasonable for them to close Mr O's account, which they were able to do under the terms. This is a difficult message for me to give, and I know it's a difficult message for Mr O to receive. But given the evidence I have, and the balance of probabilities, I'm currently unable to reasonably reach any other conclusion.

I said I'd consider anything else anyone wanted to give me – so long as I received it by 13 April 2023. But neither Mr O nor Starling sent me anything new to consider.

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.

Neither side have sent me any new evidence or arguments. 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 O to accept or reject my decision before 15 May 2023.

Adam Charles
Ombudsman