

## The complaint

Miss D has complained that Starling Bank Limited registered a marker against her at CIFAS, the national fraud database.

## What happened

In autumn 2022, over the course of about a day, Miss D received a series of payments and passed them on to cryptocurrency accounts. It turned out that these were fraudulent funds, taken from victims of crime.

Starling queried things with Miss D. She initially said the money was from friends who had borrowed from her, then claimed none of the activity was her and she was hacked. But Starling noted that the onward payments had been made from Miss D's registered device, the only registered device on the account, which had been verified by a video of her, which was the same device she was contacting them on, and which was secured by a passcode and password. Starling closed Miss D's account and registered a marker at CIFAS.

Miss D came to our service. She explained that her previous testimony was not true, and she'd said it because she was scared. She'd been introduced to some men at university who said she could make money if she let them transfer funds through her account into crypto. They assured her it was legitimate and they were doing it this way for tax breaks. She started to get suspicious when getting so many credits from people she didn't know, but they said it was all legal. The men became aggressive and pressured her into forwarding the money on quickly. She was frightened as they knew where she lived. They demanded the login details for her crypto accounts and all the funds were forwarded on to the men's own crypto wallets. She did not receive any cut or reward, and by the end she'd realised it was dodgy and was scared of the men so she didn't ask for one. She now wishes she'd told Starling the truth from the start, but she was worried that the men would work out she'd told the bank what happened and come for her.

Our adjudicator didn't uphold the complaint, since Miss D's testimony had been so inconsistent and she hadn't yet provided evidence to support it. And without statements, they couldn't be sure whether she really benefitted from the fraud or not. They explained that the outcome could change if Miss D provided statements and message logs.

Miss D appealed, and sent in statements from her crypto accounts and other bank account, along with the message logs between her and the fraudsters. The complaint's been passed to me to decide.

I sent Miss D and Starling a provisional decision on 25 April 2023, to explain why I thought the complaint should be upheld. In that decision, I said:

*I need to consider whether this report to CIFAS was made fairly. On this point, Starling needed to have more than just a suspicion or concern. They need to be able to show they had reasonable grounds to believe that fraud or a financial crime had been knowingly committed or attempted by Miss D, backed up by evidence so rigorous that it would support this being reported to the authorities.*

*This case is finely balanced. I find that Starling did have appropriate grounds to register the marker, and there are reasonable arguments for keeping it registered against Miss D. For example, as our adjudicator noted, her testimony has changed a lot and she should have been more suspicious of what was going on. But based on all the evidence I've got, notably including the evidence Miss D has now sent, I currently think that the marker should now be removed. I'll explain why.*

*The message logs Miss D provided match up with what she told our service. I can see that she was in contact with the fraudsters, who sent her strict commands. She made payments by the methods and in the order that they told her to – Miss D was not directing things herself. The fraudsters frequently rang her, keeping what they wrote down minimalistic. And they pressured her to be quick, explaining that otherwise their verification codes would quickly expire.*

*Importantly, I can see that all the money ultimately ended up going to the crypto wallets of the fraudsters. As far as I can see, Miss D did not benefit from this herself at all.*

*Miss D's account had been open for some time before this incident, and otherwise seems to have been used for broadly normal spending. As far as I can see, it was a genuine account, as opposed to one which had been opened for the purpose of committing fraud.*

*Looking at the fraud reports, I note that Miss D's account was not the only one the fraudsters were telling victims to pay. The fraud was initiated from social media accounts which do not appear to be linked to Miss D. And according to one victim, they were given Miss D's bank details to send money to but didn't know who she was. This all seems to suggest that Miss D was not directly involved in the fraud itself – it looks more like she was just a cog in the wheel, who the fraudsters were using to pass funds on.*

*It is not uncommon for young people to be targeted for use as unwitting money mules, and the investment scheme story that Miss D says she was told sounds quite typical for this sort of situation. I can understand why someone young and unfamiliar with the financial world might believe that it's legitimate to move money in this way for cryptocurrency investments or tax reasons. I can see that the fraudsters were quite aggressively commanding and put on pressure in their messages, and I can understand why Miss D may have been scared to tell the bank about them if they knew where she lived. And I appreciate that people often don't act logically when under pressure.*

*Of course, at best Miss D certainly was highly negligent here. She should have questioned what was going on. And I accept that I cannot categorically rule out the possibility that Miss D was a willing participant in the fraud. But in light of the new evidence she's provided, I also cannot rule out that she was simply taken advantage of. So I find that Starling no longer have the balance of evidence needed to quite meet the bar of keeping this CIFAS marker in place. And so while I am fully conscious of the risk that Miss D knowingly and willingly aided in crime, I think the risk of Miss D being an unwitting party is too great to justify this CIFAS marker remaining.*

*In summary, given Miss D's plausible new testimony, the comprehensive evidence she's now provided that fits with it, the previous genuine use of her account, the evidence indicating she wasn't directly involved in defrauding the victims, and the fact that she does not appear to have benefitted, I am currently minded to tell Starling to remove the marker.*

*I've also thought carefully about whether Starling should pay Miss D any compensation for registering this marker. But I'd only award compensation if I thought Starling had done something wrong. Here, Starling very much had sufficient grounds to close Miss D's account and register a CIFAS marker based on what they knew at the time. They'd received many official fraud reports, they could see Miss D had been using the account herself, Miss D had not yet provided any evidence to substantiate what she'd said, and she'd told Starling two clearly fictitious stories. So it seems reasonable that Starling put the marker in place.*

*So I'm suggesting that Starling just remove the marker now. With that said, I hope Miss D is aware of just how close she came to facing severe repercussions, such as having the marker remain for the full period and being reported to the authorities. Now that she is definitely aware of the criminal nature of what she was involved in, she should not expect to be given such benefit of the doubt if something similar happens again. I trust that she will keep this firmly in mind and will avoid any similar situations in future.*

I said I'd consider anything else anyone wanted to give me – so long as I received it by 10 May 2023. Starling accepted the provisional decision and agreed to remove the marker. Miss D didn't respond.

### **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.

I am grateful to Starling for agreeing to remove the marker, and will note again that they were not wrong to initially register it based on what they knew at the time.

### **Putting things right**

I direct Starling Bank Limited to remove the CIFAS marker in dispute, and any related fraud marker they placed in relation to this matter.

### **My final decision**

For the reasons I've set out, I uphold Miss D's complaint, and direct Starling Bank Limited to remove the fraud loading.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept or reject my decision before 13 June 2023.

Adam Charles  
**Ombudsman**

