

## **The complaint**

Mr D complains that Barclays Bank UK PLC placed an adverse fraud marker against his name unfairly.

## **What happened**

As both parties are familiar with the circumstances of this complaint, I've only summarised them briefly below.

Mr D held a bank account with Barclays. In August 2022, Mr D received two payments into his account totalling £5,000 which were withdrawn soon after.

Later, Barclays received a report from the sending bank letting it know that the £5,000 originated from the proceeds of crime. It provided information to Barclays regarding a fraud that had been committed against its customer.

Barclays placed blocks on Mr D's account and carried out a review. As a result of this, it took the decision to close Mr D's account immediately and loaded a fraud marker against his name on the Cifas and National Hunter databases.

Mr D, unhappy with Barclays' actions, made a complaint. Barclays contacted Mr D and asked him to account for the funds that had passed through his account. Mr D told Barclays that he'd been looking to obtain a loan to pay off other debts and was referred to a third-party by a friend. This individual agreed to provide the loan and paid it into Mr D's account.

Barclays considered Mr D's testimony but felt it had placed the markers fairly. So, Mr D referred his complaint to our service as he remained unhappy.

An Adjudicator considered the evidence and testimony provided by both parties but concluded that the fraud markers applied were fair. Broadly, they pointed out that Mr D's testimony had been inconsistent and that no evidence existed to support his claim that the funds were received from what he believed to be a legitimate loan.

Mr D disagreed. While he admitted he had made an error in judgement, he felt the marker was unfair considering he is, and was, no risk to the banks.

As Mr D disagreed with the Adjudicator's assessment, the matter has now been passed to me for a final decision.

## **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.

One of the relevant considerations here is set out by Cifas: the fraud marker database controller. In its Handbook—which members must adhere to when loading markers—it sets out the burden of proof the member must meet. The relevant standards applicable to this complaint are:

- That there are reasonable grounds to believe that a fraud or financial crime has been committed or attempted.
- That the evidence must be clear, relevant and rigorous.

These standards mean that Barclays must have more than mere suspicion when loading a marker against a person's name. It must have strong evidence to support that a financial crime has been committed or attempted and that the person to whom they are loading the marker against is more than likely to have had witting involvement.

I'm satisfied that the first of the above two standards has been evidenced here. Barclays has provided conclusive evidence it received a report from a third-party bank informing it that the funds paid into Mr D's account originated from a fraud against its account holder. Therefore, I'm satisfied that Barclays did have reasonable ground to believe a fraud had been committed.

Moving onto the second standard. Barclays were made aware in 2020 that Cifas updated its guidance on how to deal with customers suspected of laundering the proceeds of crime through their account. This guidance set out that, as of June 2020, Cifas members were expected to contact its customer via two methods of communication to give that customer a chance to explain the activity on their account. This was introduced to ensure customers that were unwitting or victims of fraud themselves weren't loaded to the database unfairly.

Here, I've not seen evidence that that Barclays did carry out a thorough investigation until Mr D raised a complaint about its decision to load the marker. I can see that it's sent a letter to Mr D asking him to get in touch, but didn't attempt to contact him via any other method. While Barclays hasn't carried out a review in line with the guidance set out by Cifas, I've considered the evidence that has now been provided to ensure the loading currently against Mr D's name is fair or not.

Mr D's testimony throughout Barclays and our service's investigation has been inconsistent. The reasons for the payment have changed over time and Mr D has recently disclosed that the payment was in fact for gambling rather than to pay off some of his existing debts. He's also been inconsistent with some of the details of the people who provided, and referred him to, the loan.

While I don't intend these comments to suggest Mr D has been dishonest—as he may have merely been experiencing a particularly turbulent and difficult period in his life—it does impact the reliability of the information he's provided.

This lack of reliability is also compounded by the fact that Mr D has been unable to furnish either Barclays or our service with evidence to support his testimony. He's been unable to provide any correspondence between him and the loan provider. He says that this was due to all conversations being carried out over the telephone, but I'm not persuaded that a loan agreement could have been reached without any formal written agreement, messages providing banking information or confirmation of payments being carried out.

I also find that Mr D ignored some of the red flags that were presented to him as part of the payment process. The payments into his account were made from an account not in the name of the person he says provided the loan. The payments were made in two batches rather than one and the payment provided a reference relating to a motor vehicle rather than for a loan. Mr D should have picked up on some of these inconsistencies and questioned them further before spending the funds.

My role is not to accuse Mr D of any wrongdoing here. I'm merely making the above

assessment to establish if Barclays has sufficiently demonstrated it's met the burden of proof set out by Cifas to load the marker against him. And when considering the inconsistency in the testimony, the lack of evidence to support the loan and the red flags that were presented as part of the payment process, I find that it has. This, in my view equates to more than mere suspicion or concern and I therefore find that the marker was loaded fairly.

### **My final decision**

For the reasons I've given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 11 December 2023.

Stephen Westlake  
**Ombudsman**