

The complaint

Mr S has complained Lloyds Bank plc added a fraud-related marker in his name to the industry fraud database, CIFAS..

What happened

In May 2022 Lloyds froze Mr S's account. They'd received an alert from another bank about money paid into Mr S's account. As Mr S was unable to access his accounts using his app, he contacted Lloyds. Lloyds weren't sure they believed Mr S when he told them he knew nothing about the money or why it was paid into his account. As they could see funds being paid to an account with another bank in Mr S's name and to Mr S's savings accounts with them, they believed he'd been part of the fraud. They closed his accounts and lodged a fraud marker with the industry fraud database, CIFAS.

Mr S subsequently found he was unable to open another bank account. His mother – as Mr S was only 17 – complained to Lloyds on his behalf. He was pushed to tell them the full story, but Lloyds refused to remove the marker. They were satisfied Mr S had benefitted from the fraud.

Mr S's mother brought his complaint to the ombudsman service on his behalf.

Our investigator asked Lloyds to pay a further £100 which they agreed to do. She wouldn't, however, ask them to refund the money returned to M.

Still unhappy, Mr S has asked an ombudsman to review his complaint. Our investigator felt there were too many inconsistencies in what Mr S had told Lloyds and our service. She wouldn't ask Lloyds to remove the CIFAS marker.

Mr S asked an ombudsman to review his complaint. I completed a provisional decision on 12 December 2023.

I didn't believe that Mr S had been a willing participant in the scam so asked Lloyds to remove the marker from his record. Lloyds agreed to do this.

I received no further correspondence from Mr S. However I have enough information to complete my 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.

Having done so, I've reached the same outcome as I did in my provisional decision. What follows explains my thinking.

It is clear what the requirements are prior to lodging a fraud-related marker. Specifically:

“There must be reasonable grounds to believe that an identified fraud or financial crime has

been committed or attempted.

The evidence must be clear, relevant and rigorous.”

So Lloyds must be able to provide clear evidence that an identified fraud was being committed and Mr S was involved. I'm not satisfied they've done this here. I say this because:

- Mr S has told us he was duped by someone who approached him at his youth club and persuaded them he could earn some money. Mr S was young at the time and his mother tells us is financially naïve so was prepared to go along with what was asked of him.
- I'm not sure Mr S realised the seriousness of what was happening. But when persuaded to share his account details, including password information, he did pass these on. He was also made to hand over his bank card but it's clear from Mrs S's testimony that he was anxious to have this returned as he relied on this and financial help from his parents.
- I've seen evidence about the funds paid into Mr S's account. These were the result of someone being scammed. There's no doubt this money wasn't his.
- Shortly after receipt of the funds, Mr S transferred two amounts to an account in his name with another bank (who I'll call M).
- I've been in touch with M, to ascertain the details of this account and how it was opened. Despite allowing them plenty of time, I've received no response. In my experience that suggests the evidence isn't that straightforward and makes me suspect that whilst Mr S's personal details may have been used to open the account, I'm not convinced he did this himself. This means that the majority of funds were not sent to an account in Mr S's name.
- However I can see £20 and £160 of the amount transferred into Mr S's account were kept by him and transferred within his various accounts. Lloyds in fact retained £160 when they blocked, then closed his account in June 2022.
- M also blocked £50 in Mr S's account when they realised it was being used for fraudulent purposes.

Stupidity and youth are no defence against fraud. However I can see Lloyds weren't completely convinced of Mr S's willing involvement in this fraud. Their own notes state *“If the customer had been honest with us from the beginning, the CIFAS marker may have been removed”*. Unfortunately it's not unusual for 17-year-olds to lie in moments of confusion and embarrassment. And I'm not convinced that lying alone is adequate reason for a CIFAS marker to be lodged.

I don't say this lightly as it's clear that until things went completely pear-shaped, Mr S wasn't completely an unwilling participant. But I do believe he was unaware of what was really going on.

Putting things right

On that basis, I believe it's fair and reasonable to ask Lloyds to remove the CIFAS marker from Mr S's record.

My final decision

For the reasons given, my final decision is to instruct Lloyds Bank plc to remove the CIFAS marker from Mr S's record.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 12 February 2024.

Sandra Quinn
Ombudsman