

## **The complaint**

Miss B complains Barclays Bank UK PLC registered a fraud marker at CIFAS, the national fraud database and closed her account. She says Barclays Bank UK PLC didn't treat her fairly.

## **What happened**

In late August 2023, two payments credited Miss B's account with Barclays. Miss B then made two transfers out of her account using these funds. Soon afterwards, the payments into Miss B's account were identified as fraudulent by the bank where the funds had come from (they reported their customer had been the victim of a scam).

Barclays placed a block on the account and conducted a review. As part of this review Barclays contacted Miss B about the two payments into her account. Miss B said she didn't recognise the payments into her account and didn't make the transfers out.

Based on its review of the account and Miss B's comments Barclays informed her on 1 September 2023 that it would be closing her account. Sometime later, Miss B also discovered Barclays had placed a fraud marker against her with CIFAS. She contacted Barclays to complain but it didn't think it had done anything wrong. It said, it had placed the marker in line with its internal policies and regulatory obligations. But Miss B didn't think this was fair and referred the complaint to our service.

An Investigator looked into Miss B's complaint, and Miss B provided further details about her account activity. In summary, Miss B explained she had been in contact with an individual on social media about an investment opportunity. As part of this she claimed her bank details were shared and this is why funds were received into, and then passed on from her account. Miss B provided screenshots of the conversation she had online, and she explained she contacted Barclays as soon as she realised this was a scam. The Investigator considered Miss B's comments, but didn't think the complaint should be upheld. The Investigator explained this was because:

- The terms and conditions allowed Barclays to close Miss B's account immediately in certain circumstances. The information Barclays had met the criteria set out in the terms for immediate closure.
- Barclays has important regulatory obligations which means it must monitor accounts and record information which suggests fraudulent activity.
- The loading of a CIFAS marker was appropriate as Miss B's testimony and evidence wasn't sufficient in explaining the account activity.

Miss B didn't accept the Investigator's findings and maintained she hadn't knowingly been involved in fraudulent activity. The complaint was referred to me – an ombudsman – 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.

I'm sorry to disappoint Miss B but I'm not upholding this complaint. I will explain why.

### *CIFAS loading*

The marker that Barclays has filed is intended to record that there's been a 'misuse of facility' – relating to using the account to receive fraudulent funds. In order to file such a marker, it isn't required to prove beyond reasonable doubt that Miss B is guilty of fraud or a financial crime, but it must show that there are grounds for more than mere suspicion or concern.

The relevant guidance says:

- 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 such that the member could confidently report the conduct of the subject to the police.

What this means in practice is that a bank must first be able to show that fraudulent funds have entered Miss B's account, whether they are retained or pass through the account.

To satisfy this test, Barclays will need to have strong evidence to show that Miss B was deliberately dishonest in receiving the fraudulent payment and knew it was, or might be, an illegitimate payment. This can include allowing someone else to use their account to receive an illegitimate payment. But a marker should not be registered against someone who was unwitting; there should be enough evidence to show complicity.

To meet the standard of proof required to register a fraud marker, Barclays must carry out checks of sufficient depth and retain records of these checks. This should include giving the account holder the opportunity to explain the activity on their account in order to understand their level of knowledge and intention.

In Miss B's case Barclays was alerted to the payments into the account by a third-party bank. The customer of the bank reported the transfers were made as the result of an investment scam. As part of its review Barclays highlighted the two payments into her account to Miss B. At the time Miss B claimed she didn't have any knowledge of the payments into her account or the subsequent transfers out. Barclays didn't find Miss B's comments plausible. It has provided Miss B's online banking activity which shows Miss B was accessing her account at this time and so she would've seen the transfers. Miss B also didn't provide any details to explain how the transfers would've been made from her account by a third party.

When Miss B referred her complaint to our service she provided further details, explaining she had been in touch with an individual online about an investment opportunity. Miss B has provided screenshots of her conversation, and although I can see there is a discussion about transferring funds, I haven't seen anything which explains the transfer into Miss B's account and the subsequent transfers out. Miss B says the scammer involved was able to access her account. But the technical evidence from Barclays doesn't support Miss B's version of events.

Miss B's recollection of events has been inconsistent, and her testimony doesn't provide a plausible explanation as to how the funds moved through her account. In my view, Miss B

would've had to actively be involved to transfer the funds from her own account. My role is to establish if Barclays has sufficiently demonstrated it's met the burden of proof set out by CIFAS to load the marker against her. And when considering the evidence, 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.

### *Account closure*

On 1 September 2023 following its review of Miss B's account, Barclays wrote to her to explain it would be immediately closing her account.

A bank is entitled to close an account with a customer just as a customer may close his or her account with a bank. But before a bank closes an account, it must do so in a way, which complies with the terms and conditions of the account.

The terms and conditions of Miss B's account confirm Barclays can close the account immediately under certain circumstances. I believe, considering what happened in this case as detailed above, it was reasonable for Barclays to close Miss B's account with immediate effect. I understand this will have caused Miss B a level of inconvenience, but I don't think Barclays should compensate her for this given the reasons for immediate closure.

I know this will not be the outcome Miss B was hoping for and I understand the application of a CIFAS marker against her name will have significant consequences. But I am satisfied Barclays acted reasonably in taking this action to discharge its regulatory obligation. I know Miss B will be disappointed with the decision I've reached, but I hope it provides some clarity around why I won't be asking Barclays to take any further action.

### **My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 17 July 2024.

Chandni Green  
**Ombudsman**