

The complaint

Miss R complains that Lloyds Bank PLC closed her account and loaded a negative fraud marker against her on the National Fraud Database. She'd like the marker removed and compensation for the impact caused.

What happened

Miss R had an account with Lloyds.

On 12 November 2023 Miss R received three payments into her account totalling £1,700.

Miss R sent two payments to one of her friends, I'll call P, and £300 to limited company. This left £250 of the £1,700 in Miss R's account.

On 14 November 2023 Lloyds blocked Miss R's account. They'd received notification that two of the three payments Miss R had received, totalling £700, were fraudulent.

The asked Miss R why she'd received the funds, and Miss R advised she'd received them on behalf of a friend and been asked to move them on.

Lloyds later received a further fraud report about the £1,000 received on the same day.

Miss R's account remained blocked, and on 23 November 2023 Lloyds made the decision to close Miss R's account and issue her with 2 months' notice. They also loaded a negative fraud marker against her on the National Fraud Database.

Miss R also attended the branch with messages from a social media site, but Lloyds didn't think the evidence showed Miss R was entitled to the funds. So they didn't change their decision.

Miss R asked Lloyds to reconsider their decision, but after reviewing it they thought they'd acted fairly. So Miss R brought her complaint to our service.

One of our Investigators looked into Miss R's complaint. They asked her for more information about why she'd received the funds. Miss R explained that she unexpectedly received them on behalf of a friend, P, and was asked to pass them on to him. Apart from £250 which P asked her to withdraw in cash then hand over to him.

Miss R also shared two social media messages she'd exchanged with P which show her account details and P's.

After considering the evidence Lloyds and Miss R presented our investigator thought Lloyds acted fairly in closing Miss R's account and loading a negative marker on the National Fraud Database.

Miss R didn't agree, so the case has been passed to me to decide.

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.

Lloyds can only close accounts if it's in the terms and conditions of the account and they don't discriminate against their customers. Lloyds have relied on the terms and conditions when closing Miss R's account. Miss R was provided with the full notice period – however her account was restricted during this time. As Lloyds received two fraud reports I can't say this was unfair and I agree Lloyds were entitled to close her account and restrict access immediately.

The marker that Lloyds have 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, they're not required to prove beyond reasonable doubt that Miss R is guilty of a fraud of financial crime, but they 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; [and]
- The evidence must be clear, relevant and rigorous'

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

Secondly, the bank will need to have strong evidence to show that Miss R was deliberately dishonest in receiving the fraudulent payments and knew they were, or might be, illegitimate payments. This can include allowing someone else to use her account in order to receive an illegitimate payment. But a marker should not be registered against someone who was unwitting; there should be enough evidence to show deliberate complicity.

I've seen evidence from Lloyds which demonstrates they were notified Miss R received fraudulent funds into her account. And on reviewing Miss R's account activity I'm satisfied these funds entered her account. This means the first part of the test for Lloyds to load a marker has been met.

But, for Lloyds to fairly load a marker against Miss R they need to evidence she was *complicit* when receiving the funds. Miss R has explained that the funds were sent to her without her knowledge, and then her friend – P – asked her to transfer most of them on. With £250 to be provided in cash at a later date. I've also seen two social media messages which she's shared regarding this arrangement.

I've considered what Miss R's said to our service, and Lloyds. But I'm afraid I can't say her version of events persuades me that Miss R wasn't complicit in the fraud. I find it surprising that a fraudster would send funds to her, or anyone, without their knowledge. And, even more surprising that without knowledge of where these funds came from, Miss R agreed to transfer them out – via multiple payments – to P and then a destination of P's choice. Miss R herself mentions that she did wonder why P was asking for the funds to be sent to her, rather than himself, especially as it's clear P has a working account for the funds to be sent to.

I've briefly considered whether the social media messages change my thoughts on Miss R's case – but I'm afraid they don't. In fact I think they raise further questions – namely if Miss R wasn't receiving funds knowingly on behalf of P, why was she sharing her bank account

details with him. I also note that Miss R hasn't been able to share any messages between her and P where she mentions unexpectedly receiving the funds.

For the reasons I've outlined above I don't find Miss R's explanation for why she received the funds as plausible. I'm satisfied Lloyds have met the burden of proof to load a fraud marker on the National Fraud Database and I won't be asking them to do anything further.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 5 November 2024.

Jeff Burch
Ombudsman