

The complaint

Mr H complains Barclays Bank UK PLC (Barclays) unfairly loaded a Credit Industry Fraud Avoidance System (Cifas) marker on the National Fraud Database. He wants the marker removed and compensation.

What happened

In January 2024, Mr H contacted Barclays to report suspected fraud on his account. He said that there were two ATM transactions that he didn't recognise, totalling £190 and he wanted it to refund him. After an investigation, Barclays reviewed his account, closed it, and loaded a Cifas marker against him.

Mr H discovered that Barclays had added the marker to his file when he attempted to open a bank account elsewhere. He complained to Barclays, saying that he hadn't done anything wrong and he wanted it to remove the marker and compensate him for the trouble and upset caused. Barclays rejected his complaint, stating that it thought the Cifas marker was fair.

Unhappy with its response, Mr H brought his complaint to our service. Our investigator didn't think Barclays had done anything wrong in registering the marker against Mr H so didn't recommend that the complaint be upheld.

Mr H is strongly defending this complaint. He says he has not acted fraudulently and that he:

- is a god-fearing man;
- has no criminal record;
- has a well-paid job and a large amount of savings, therefore doesn't need to commit fraud; and
- thinks Barclays should have contacted the police if it thought he was a criminal.

As Mr H remained unhappy, the complaint was 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.

Having done so, my review of the evidence has led me to the same overall conclusions as the investigator previously set out and for broadly the same reasons.

I understand how strongly Mr H feels about this complaint. He has raised a number of points and although I may not mention every point raised, I've considered everything he has said but limited my findings to the areas which impact the outcome of this case. No discourtesy is intended by this. It just reflects the informal nature of our service.

Mr H has raised a number of separate complaints, including the disputed ATM transactions, the account closure and the Cifas marker being added as well as a number of complaints regarding chargebacks. To clarify, I am only making a finding on the Cifas marker being

loaded, however I've had sight of all of the other complaints to ensure I have a full picture of what has happened.

The type of Cifas marker that Barclays applied is for 'misuse of facility' due to falsely reporting loss. In order to be able to file such a marker, Barclays needed to have sufficient evidence to meet the requirements of the burden of proof laid out by Cifas. Barclays are not required to prove beyond reasonable doubt that Mr H is guilty of a fraud or financial crime but it must show that there are reasonable grounds that amounted to more than mere suspicion or concern.

Cifas guidance at the time said:

- 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

So, my role here is to determine whether Barclays had enough evidence to meet the above standard of proof to load the Cifas marker. Having reviewed all the information Barclays provided and what Mr H has said. I'm satisfied the evidential threshold is met. I'll explain why.

The month before the two disputed ATM transactions occurred, Mr H also reported he was a victim of ATM fraud and received a refund of £100. Barclays has explained that it was refunded as a gesture of good will so it didn't conduct an investigation into this transaction. Barclays also provided him a new bank card and Personal Identity Number (PIN). It was Mr H's newly acquired card and PIN which were used to make the two newly disputed transactions. Mr H said that he still had his card and that nobody else is aware of what his PIN was. When the complaint about the two disputed ATM transactions were reviewed by another Ombudsman, they determined that it was more likely than not that Mr H was responsible for the transactions. I also can't see how a third party would be able to make the transactions if no one else had access to the card or PIN.

Mr H has raised multiple disputes, chargebacks and over 40 complaints over the last few years. Often asking for compensation, offers of goodwill or temporary credit when he does so. Having looked on the file, I can see that many of the disputes he has had, he has been held liable for. He has made several complaints regarding not being given instant refunds or temporary credit and has cancelled disputes when he hasn't been able to receive a temporary credit. He has also mentioned that he is aware of banking practices and procedures as he used to work for Barclays. Given the account activity, customer actions and his previous experience within banking, I think Mr H is aware as to how the banking system works and may be using this knowledge to his advantage.

I have also listened to a phone call between Mr H and Barclays where he expresses that he will continue raising complaints with the ombudsman service whether they are upheld or not as he is aware Barclays gets charged per case.

Whilst I cannot say it is impossible, it seems highly implausible that one person would have had this many legitimate disputes. And when considering this pattern of complaints along with his statements in the call regarding him wanting to cause Barclays financial loss and the disputed ATM transactions, I think it's more likely than not that he knew some of the requests for refunds, credits and compensation were made dishonestly. I've thought carefully about the specifics of each of the complaints and requests for funds made, and having done so, I think it is most likely that he knew or ought to have known that some of the statements were untrue or misleading.

Whilst we can never know what went on in Mr H's mind at the time, the evidence suggests to me that it is more likely than not that he was being dishonest when he made some of the statements to Barclays, and that he did so in order to cause Barclays a loss. Therefore, the burden of proof has been met and I don't think Barclays need to remove the marker.

My final decision

I do not uphold this complaint

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 17 January 2025.

Sarah Green

Ombudsman