

The complaint

Mr K complains Barclays Bank UK PLC registered a fraud marker at Cifas, the national fraud database. He doesn't think it's done so fairly.

What happened

A summary of what happened is below.

Mr K held an account with Barclays. On 11 April 2024, the account received a payment for £870 from a third party through a bank transfer. Later on, £300 of the funds were withdrawn by Mr K into an account he held with another bank. The payment that came into the account was then identified as fraudulent because the bank from which the funds had come, notified Barclays its customer had been the victim of a fraud and scam.

Barclays suspended the account and asked Mr K for proof he was entitled to these funds and another large credit that had come into his account. Mr K said that the first payment was a salary credit he'd received on behalf of a friend that didn't have a bank account. Barclays asked for supporting information, but when Mr K wasn't able to satisfy its requirements, it made the decision to immediately close the account and load a misuse of facility marker at Cifas.

Mr K contacted Barclays about this in June, to complain after finding out about the marker. He said he'd not done anything to cause this. Barclays reviewed things but said it had recorded the marker it in line with its internal policies and regulatory obligations and declined to remove it. It also deemed the account closure to be correct.

One of our investigators reviewed matters. He acknowledged what Mr K had said but didn't think Barclays had treated him unfairly given the evidence it had. In particular, he noted he didn't have any information to support he'd agreed to help his friend or proof that a salary payment was due in from his friend's employer. He believed the evidence Barclays had showed Mr K was complicit in receiving a fraudulent payment in his account and he had benefited from those funds when he's transferred them to another account. In the circumstances, he didn't think that it was unfair for Barclays to record the fraud marker.

Mr K said he'd been in touch with the party from whom the funds had come in an effort to resolve this issue. He provided exchanges of messages with them, which he felt supported he didn't know anything about what had happened, and that the money had landed in his account as a result of them being scammed.

The investigator didn't find the evidence persuasive and so the case was escalated for a final decision as the second and final stage in our process.

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 Mr K but I'm not upholding his complaint.

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's not required to prove beyond reasonable doubt that Mr K is guilty of a fraud or 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 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 Mr K's account, whether they are retained or pass through the account.

Secondly, the bank will need to have strong evidence to show that Mr K 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; the bank 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 to understand their level of knowledge and intention.

So, I need to decide whether I think Barclays has enough evidence to show fraudulent funds entered Mr K's account and he was complicit. And I'm satisfied it has. I'll explain why:

- I've seen evidence from Barclays that it received a report from a different third-party bank saying that funds which entered Mr K's account were as a result of a fraud.
- Mr K told Barclays that he'd let his friend have his salary paid into his account as he didn't have an account of his own. He says he knew nothing else about the payment. Here, the payment that credited his account came in on 11 April, but the funds weren't removed until 9 May and then they were sent to an account in Mr K's name. If he genuinely understood this to be a salary payment, I'm not persuaded he'd leave the funds in his account for as long as he did and there's no credible explanation for that.
- Crucially though, there's no tangible evidence to support the arrangement Mr K says he had with his friend, whether that's messages with them or something else from their friend's employer that they'd been asked to send a payment for their employee to Mr K's details. So, I don't find the explanation he gave Barclays satisfactory.
- I've reviewed the messages Mr K gave us with the party that he says lost the funds. He says these show he didn't know anything about what happened. But they aren't in my view compelling. Because it's accepted the funds that were paid into Mr K's account were as a result of a fraud. However, there's no proper explanation for why they'd be paid into Mr K's account and would sit there until he removed them. And none of this, ties in with what Mr K has said about his friend and salary payment.
- Considering all of this and the overall activity on the account since it was opened, it's consistent with using the account to allow illegitimate payments into it.

Ultimately, the marker that's been loaded relates to a misuse of an account facility which is exactly what's happened here. Weighing everything up, I'm satisfied Barclays had enough to justify recording the marker. It follows that I'm not going to require it to remove it.

For completeness, I'm satisfied Barclays was also entitled to close the account in the circumstances it did, given the account activity and terms and conditions.

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 Mr K to accept or reject my decision before 9 December 2024.

Sarita Taylor
Ombudsman