

## The complaint

Ms S is unhappy that Barclays Bank Plc has closed her account and registered a Cifas marker against her.

## What happened

Ms S had two accounts with Barclays, a current account and a basic account. From 2 January 2023 and 3 March 2023 Ms S reported over 270 cards linked to both accounts lost/stolen and ordered replacement cards. On numerous days she ordered multiple cards in one day, before the previously ordered card could have reached her.

On 4 March 2023 Barclays restricted Ms S's account and she contacted it about this. According to its records she contacted it to report the problem with ordering cards and to request this was resolved. She told Barclays she didn't have the ability to pay bills because she didn't have a working card.

On 18 April 2023 Barclays made the decision to close Ms S's accounts and loaded a Cifas marker against her. Barclays has explained that once requested, new card numbers could be issued via the Barclays app and the card details used before the new physical card arrives. According to its records Ms S was viewing the cards each time a new one was requested. It said these new card details were then being used on gambling websites.

Barclays has said it was likely these new cards were being requested to take advantage of free gambling offers available on new cards. Barclays said this was a false/fraudulent report of loss and that the customer was defrauding 'money' from the gambling sites which is why the Cifas marker was loaded.

In September 2023 Ms S discovered the Cifas marker and contacted Barclays to complain about this. It appears she told Barclays that her phone had been hacked during the period the cards were ordered and her calls were being listened to by an ex-partner. Barclays asked Ms S for any evidence she had to support this but didn't receive anything from her.

Ms S brought the complaint to our service. She's explained the Cifas marker is having a significant impact on her life and her mental health. She told our service she believes the multiple card requests were related to her phone being hacked. She's said she was reporting that her phone was compromised to Barclays during the period the cards were being requested and said there were attempted unauthorised transactions being carried out during this period further supporting third party involvement.

I issued my provisional decision and said that:

*The marker Barclays filed with CIFAS is intended to record there's been a 'misuse of facility' – relating to false loss/theft reports.*

*The relevant considerations here are set out by Cifas: the fraud marker database controller. In its Handbook—which members must adhere to when loading markers—it sets out the burden of proof the member must meet. The relevant standards are:*

- 1. That there are reasonable grounds to believe that a fraud or financial crime has been committed or attempted.*
- 2. That the evidence must be clear, relevant and rigorous.*

*Barclays has said that the incorrect reporting of lost/stolen/damaged cards is fraud. Barclays has provided clear evidence that over 270 replacement cards were being requested across Ms S's accounts in a 60 day period.*

*These cards were frequently requested on consecutive days, and on multiple occasions more than one card requested on the same day, before the previously requested cards could've been received.*

*On most, if not all occasions, it appears the cards were viewed online and then used to carry out transactions on gambling websites before being reported lost/stolen/damaged and a replacement being ordered.*

*Barclays has explained that some gambling websites offer free credit at the point a new consumer signs up with new card details. It's said it's previously seen its replacement card option misused for this purpose and the use of the cards supports this is likely to be what's happened here. Based on all of this evidence, I can see why it suspected this was intentional misreporting to gain new card details.*

*I can't see that Barclays contacted Ms S about what she was doing or why prior to loading the marker. And where it is considering loading a Cifas marker, I'd expect it to do so. I say this noting the guidance Cifas released to its members in March 2020 outlining best practice guidance when filing markers against 'Money Mules' against the National Fraud Database.*

*This broadly highlights the need to consider evidence supplied by the consumer and says that contact should be made with them prior to deciding to load the marker. This is typically to establish if the consumer has themselves been victim to fraud or has been duped into unwittingly laundering funds through their account.*

*Whilst I appreciate there is no suggestion that Ms S has been a money mule here, I still think the same principle should be applied. I think it is reasonable to expect Barclays to have checked there wasn't another explanation for the multiple requests, and that Ms S hadn't been a victim of fraud or somehow duped into requesting more cards. Without this, I don't think it could've ruled out vulnerabilities that may have caused or contributed to this situation. That said, I appreciate in this case Ms S did later suggest she'd been a victim of some kind of fraud and this was discounted by Barclays – I've said more about this below.*

*Barclays has applied the loading for the fraud of misreporting cards as lost/stolen/damaged. Broadly speaking, for this to constitute fraud, there needs to be the intention of making a gain or causing a loss, or the risk of loss to another. Ms S made no gain from Barclays in this scenario, although there is some evidence from the gambling sites Ms S has been using that indicate she may have made a gain there.*

*But there is a loss here – Barclays has lost out on the costs associated with producing and posting a new card. Whilst I've seen no evidence to suggest the aim of ordering replacement cards was to cause Barclays this loss, I think the argument Barclays is making here is that*

*Ms S would have recognised this loss was a risk or consequence of her actions and proceeded anyway.*

*But if Barclays is loading a marker based on what loss Ms S ought reasonably to have recognised, I would stress again that it ought to have given her the opportunity to provide her version of events. So, I do think Barclays made an error here in loading the marker without speaking to Ms S.*

*That said, had it done so, I think it's likely Ms S would have provided the explanation she gave our service. And having considered the explanation Ms S has provided to our service, I don't find her testimony persuasive here.*

*Ms S has said that the multiple card requests weren't carried out by her. She's said her phone was 'hacked' by an ex-partner who she's explained was abusive. And, she's said she was reporting this compromise to Barclays as the multiple cards were being requested.*

*I'm very sorry to hear of Ms S's circumstances. I can see living with these must be really difficult for her. But I don't think what she's said explains how someone without her authority or knowledge has requested multiple cards using her online banking account.*

*As a starting point, the circumstances she's described here don't fit with what we currently know and understand when someone's phone is taken over or accessed by someone else. Barclays also has a record of each occasion Ms S logged into her online banking, frequently using face recognition or touch identification to do so. And if Ms S is saying someone else reported over 270 cards stolen and ordered new ones, this doesn't fit in with a pattern of what we generally see with the type of fraud where someone obtains full control and access to someone's bank account.*

*I appreciate Ms S has indicated the person who she believes accessed her phone may have had malicious intent towards her, and I accept that in these circumstances this might not follow the pattern of what I'd typically expect to see with this type of fraud. But it's not clear how if someone had accessed her phone and ordered over 270 cards with the intention of causing her harm, they would've known or predicted ordering these cards and then using them to access gambling promotions would've achieved this. I don't think this would've been foreseeable. And it seems if the intent was malicious there are other things they could've done if they had full access to Ms S's online banking.*

*There are also other inconsistencies with Ms S's story that I don't think she's been able to explain. Ms S says she was contacting Barclays while the multiple cards were being ordered. She said she was speaking to them about this problem and her suspicions that her phone had been compromised. But according to Barclays records and the call recordings it's provided this isn't the case. According to this evidence, there's no record that Ms S contacted Barclays at all between 2 January 2023 and 3 March 2023 – the period the cards were being ordered.*

*It does have a record of Ms S contacting once it had placed restrictions on the accounts which prevented any further replacement cards being requested. I've listened to the available call recordings from this time, and I haven't heard that Ms S mentioned the suspected compromise. She did discuss the fact that she'd been unable to order a replacement card and didn't understand why this was happening. She also said the inability to order a replacement card was preventing her from paying necessary bills.*

*So it's clear Ms S had attempted to order replacement cards for herself at some point. And it's clear she was accessing her online account during this period because facial and fingerprint recognition has been used. So it seems odd that she didn't mention at this time*

*any concerns she might've had about the hundreds of replacement card requests if they weren't made by her and she suspected her phone was compromised. But, even if she had discussed her concerns with Barclays at this time as she's said, I don't think it makes a difference here.*

*I say this because I have seen evidence that Ms S mentioned that her phone had been compromised when she spoke to Barclays in September 2023, after she discovered the impact of the Cifas marker that had been loaded against her. And Barclays did what I would've expected at this point and asked her for further evidence of this. I don't think Ms S has been able to provide any evidence from her mobile phone manufacturer that her phone has been accessed by a third party. I say this because I don't think the report she's provided does indicate this has happened. And again, the situation she's described isn't in line with our understanding of how this type of compromise tends to happen.*

*Ms S has also mentioned a text she received from Barclays in April 2023 informing her that a transaction for around £130 was attempted using one of her cards. This transaction wasn't successful because the card was inactive which Barclays confirmed to her over the phone on 2 April 2023 when she raised this.*

*It seems Ms S feels this supports her testimony that unusual things were happening with her account when over 270 cards were ordered using her personal security information and then used on gambling sites. And whilst I agree it is a strange coincidence that someone made one attempt to use one of the cards I don't think this point provides persuasive evidence of Ms S's testimony.*

*As a starting point, again, the activity reported isn't in line with what we'd typically expect to see when someone has obtained someone's card information and is attempting to defraud them. There's also no plausible point of compromise or evidence to suggest someone other than Ms S attempted this transaction. So, I don't think this transaction is material to the complaint here or that it adds to the plausibility of Ms S's testimony overall. And as there was no material loss anyway, given that the transaction wasn't successful, I don't see any reason to comment on it further.*

*Overall, it seems that when Ms S's accounts were closed, and later when she discovered a Cifas marker was loaded against her, she raised for the first time that she had concerns her accounts had been compromised in some way. But from what I've seen hasn't been able to provide persuasive testimony or evidence that supports this.*

*Taking all of the circumstances into account, I think it's more likely than not that Ms S reported the cards lost/stolen herself. So I think it's reasonable Barclays should hold her liable for this. And, given the volume of cards reported lost/stolen/damaged, the quick succession in which these were reported, and the fact her statements evidence the cards were being used to make transactions on a gambling site, I think it's likely the cards were being incorrectly reported as lost/stolen/damaged to gain new card details to be used for gambling.*

*Returning to the fraud marker for misuse of facility, for this to meet the threshold for fraud, a reasonable person would need to be aware that they were likely causing Barclays a loss. Over 80 new physical cards were sent to Ms S over the course of 60 days. And I think an average consumer would understand that this many replacement cards, over such a short period, would come with associated costs for the business - in particular, postage costs.*

*Taking everything into account, I'm satisfied that the loading of a Cifas marker is fair and reasonable in all the circumstances here. I note the terms and conditions of the account*

*allow for Barclays to close the accounts immediately where there is fraud and so I'm also satisfied the closure of this account was fair.*

*I have noted that one of Ms S's accounts with Barclays was a basic bank account. These types of current account are intended for people who don't have and don't qualify for standard current accounts. When closing a basic account, along with the terms and conditions of the account, Barclays also had to consider the provisions of the Payment Accounts Regulations 2015 (PAR's 2015).*

*Amongst other things they set out when an account provider can close a basic bank account. Closure is only permitted in certain circumstances – one of them involves the conduct of the account and the way it is being run. Another reason is if the consumer has access to another payment account in the United Kingdom which allows the consumer to make use of services offered by a basic bank account and was opened after the payment account with basic features.*

*Ms S confirmed to Barclays at the time her accounts were being closed that she had moved her money and arranged to have her salary paid to another account she'd been using. She confirmed this was because she hadn't been able to use the account for over a month at this point. So overall it's clear Ms S had another bank account she has been able to use.*

*Because of this I'm satisfied that Barclays closed Ms S's account fairly and it did so in line with the PAR's 2015 and terms of the account.*

Ms S responded to the provisional decision with further testimony regarding the circumstances of her complaint. Barclays had no further comment in response to the provisional 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.

In response to the provisional decision Miss S stated in the strongest terms that the cards were not ordered by her and she did not carry out any of the transactions linked to these cards. She provided a lot of information in the form of her testimony, and we made a further request for specific information which she responded to.

I won't provide the full details of her response here, but I would like to reassure Miss S I have considered all of the information very carefully. In summary, she said that:

- She was involved in a relationship with her ex-partner who was abusive and controlling. She provided more testimony explaining how she knows he could hack her phone and take complete control of her accounts. She believes he gained access to her online banking and ordered the cards with the intention of causing her harm which is what the Cifas marker has achieved.
- She had known long before the 270+ cards were ordered that there was something unusual happening with her account and says she spent hours on the phone with Barclays trying to get to the bottom of this throughout 2022 and 2023.

I've considered what Miss S has told me in response to the provisional decision very carefully. Having done so, overall, I'm not persuaded to depart from the findings I've reached in my provisional decision, outlined above.

I've explained why I believe that Barclays was acting fairly and reasonably in loading a Cifas marker in response to the 270+ cards that were ordered on Miss S's account, seemingly to take advantage of offers on gambling sites. Miss S hasn't said anything to persuade me that loading a Cifas marker was inappropriate in response to this activity and my findings remain the same on this point.

What I would like to address further here is the additional information Miss S has provided which she says evidences that she didn't carry out the activity the Cifas marker was loaded in response to. So she shouldn't be the person who has to live with the consequences of this. She's said the cards were ordered using her online banking account without her knowledge or consent.

Miss S has explained she was a victim of domestic abuse. And I want to begin by saying I'm very sorry to hear of the circumstances she's described. I can't imagine how difficult that was for her and I want to reassure her we do take circumstances like this very seriously and consider their impact very carefully. But I have to balance this information against the other information available and our understanding of situations where someone's account has been accessed without their knowledge or consent.

Overall, taking everything into account and on balance, I think it's more like than not Miss S carried out the transactions herself. I've explained much of my reasoning for this in the provisional decision included above. In addition to these points and in light of Miss S's more recent responses I've also taken the following into account when reaching this conclusion:

- Miss S initially said she'd contacted Barclays throughout January and February 2023 while the cards were being ordered to question why she was unable to use her cards. According to both Barclays' records and phone bills provided by Miss S, she didn't contact Barclays to question why her cards didn't work until early March 2023 - after it had prevented any new cards from being ordered. Given that the first card was cancelled in early January, according to Miss S's testimony she would've been unable to use her cards from this point seemingly with no explanation for this. So it seems odd she wouldn't have contacted Barclays to question this until two months later.
- Miss S has confirmed she was logging onto her online banking account during the period 270+ cards were being ordered. She's said she couldn't see any cards had been ordered and she couldn't see the gambling transactions which appear on her accounts statements. She suggested her ex-partner must've been doctoring her online banking account to remove these transactions. I don't think it's plausible that someone accessing Miss S's online account, which allows her normal, customer access, would be able to control the operations of Barclays' online banking interface and the information it shows its customers.
- Throughout January, February and early March 2023, when the 270+ cards were being ordered, the cards were being used to carry out gambling transactions. As a result thousands of pounds moved through Miss S's accounts during a two month period – both debiting and crediting the accounts. If she wasn't carrying out these transactions herself it's not clear where she thought this money was coming from. Especially as she's said she was in financial difficulties and in her own words didn't have any money of her own.
- Miss S said money was frequently lent and borrowed between her and her friends and family via online bank transfers. She's confirmed she was logging onto her online bank account during the period the cards were being ordered to do this. But according to her statements money coming into her account from friends and family

was being used on gambling sites. Even if she couldn't see where money was being spent, it's not clear what she thought was happening to this money, or how she paid for the things she had intended to pay for when she borrowed the money. We've asked Miss S about this specifically and she hasn't been able to provide an explanation.

- There are a number of credits to Miss S's accounts from gambling sites and on a number of occasions this money is transferred to other accounts in Miss S's name or on occasion individuals she regularly transferred money to or received money from. It's not clear where Miss S thought this money had come from if she couldn't see or wasn't aware of the gambling transactions on the account. And if someone else had control of her account it's not clear why they would transfer this money to Miss S and people she knew rather than benefit from the funds themselves.
- Between January and March 2023 when the cards were being ordered there was an abrupt change in Miss S's use of the accounts and she stopped carrying out purchases using any of the cards and only carried out online transfers. If she was unaware of the cards that were being ordered and cancelled, it's not clear why she suddenly changed her use of the accounts. And, if she was trying to use her cards during this time and found she was not able to, as I've outlined above, it's odd she didn't contact Barclays to discuss this until two months later when it blocked the ability to order more cards.
- Many of the 270+ cards that were ordered were viewed and cancelled online before Barclays was able to process the request to send the physical card out in the post. But, more than 80 of the cards were sent out before the cancellation happened. Miss S has said she didn't receive any of the cards that were ordered, but Barclays has provided evidence they were sent to the address Barclays' held for her. It seems unlikely all of these cards would've gone missing, so on balance, I think she likely received at least some of them. It's odd that she wouldn't have contacted Barclays to question why numerous cards were arriving at her home if she didn't order them.
- Miss S has said she was contacting Barclays throughout 2022 to complain about unusual activity on the account. Barclays has no record of this contact. Given the serious nature of unauthorised activity on an account I think it's odd that had these calls been made Barclays would have no record of this. But even if I accept Miss S did make these calls and had concerns about her accounts back in 2022 it doesn't follow that this means she couldn't have been responsible for the cards ordered and transactions carried out in 2023. I would still have needed to consider her testimony alongside all the other information available in this case and reach a decision based on balance and what I think is most likely in the circumstances.

Overall, taking everything into account, I think it's more likely that the cards were ordered by Miss S or with her consent. Because of this I'm satisfied Barclays has acted fairly and reasonably.

In her recent correspondence Miss S has mentioned a transaction on her accounts – an online transfer – to someone she doesn't recognise. She hasn't said who this was to or told us much more about this. Barclays hasn't had the opportunity to consider this disputed transaction, so if she feels there is an unauthorised transaction on her account she'll need to first raise this separately with Barclays so it can investigate this for her.

**My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms S to accept or reject my decision before 5 February 2025.

Faye Brownhill  
**Ombudsman**