

The complaint

Mr M complains that Tide Platform Ltd unfairly registered a marker about him at Cifas, the national fraud database.

What happened

Mr M had an account with Tide.

On 31 May 2024, two payments of £865 and £686 were made into Mr M's account from two individuals I will refer to as B and C.

Following this Tide were notified by another bank that the payments from B and C were fraudulent, and their customers had been the victim of scams.

Tide contacted Mr M and asked him to explain the payments from B, C and some other activity on his account. Mr M told Tide that funds he'd received from B and C were payments for sales of cryptocurrency that he'd made on a trading platform. Tide asked Mr M to provide evidence to support his explanation. In response, Mr M sent Tide screenshots from his account with the trading platform, which he said showed he'd sold USDT to B, and C.

Tide reviewed everything and decided to place a fraud marker against Mr M's name with Cifas. This was for misuse of a facility in relation to retaining fraudulent funds.

Mr M complained to Tide and asked them to remove the marker. In response, Tide said it wasn't willing to remove the marker.

Unhappy with this response Mr M brought his complaint to our service. He said he hasn't done anything wrong and isn't a fraudster. He explained that he'd made legitimate sales of cryptocurrency and provided screenshots to support his explanation.

An investigator looked into Mr M's complaint and asked After reviewing everything the investigator said that Tide hadn't done anything wrong when it had recorded the marker against Mr M's name.

TIDE agreed with what the investigator said. Mr M didn't. He wants the marker removed. As no agreement could be reached the matter has come 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.

I would add too that our rules allow us to receive evidence in confidence. We may treat evidence from financial businesses as confidential for a number of reasons – for example, if it contains information about other customers, security information or commercially sensitive information. It's then for me to decide whether it's fair to rely on evidence that only one party has seen. It's not a one-sided rule; either party to a complaint can submit evidence in

confidence if they wish to, and we'll then decide if it's fair to rely on it. Here, the information is sensitive and on balance I don't believe it should be disclosed. But it's also clearly material to the issue of whether Tide has treated Mr M fairly. So, I'm persuaded I should take it into account when deciding the outcome of the complaint.

I'm very aware that I've summarised the events in this complaint in far less detail than the parties and I've done so using my own words. No courtesy is intended by me in taking this approach. Instead, I've focused on what I think are the key issues here. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome. But I have read all Mr M's submissions.

The marker that TIDE filed with Cifas against Mr M is intended to record that there's been a 'misuse of facility' – relating to using his account to receive fraudulent funds. In order to file such a marker, they're not required to prove beyond reasonable doubt that Mr M is guilty of a fraud of financial crime, but they must show that there are grounds for more than mere suspicion or concern. Cifas 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 M's account, whether they are retained or pass through the account. Secondly, the bank will need to have strong evidence to show that the consumer was *deliberately* dishonest in receiving the fraudulent payment and knew it was, or might be, an illegitimate payment. But a marker shouldn't be registered against someone who was unwitting; there should be enough evidence to show *deliberate* complicity. There's also a requirement that Tide should be giving the account holder an opportunity to explain what was going on.

So, I need to consider whether based on all the information including the evidence Mr M has submitted whether Tide had sufficient evidence to meet the standard of proof and record a marker for misuse of facility with Cifas. Having looked at all the information provided I'm satisfied they did. I say this because:

- I've seen the evidence provided by Tide. This confirms that Tide received fraud reports from a bank whose customers, B and C, felt they'd been scammed when they sent money to Mr M's account.
- Mr M says the payments were for sales of USDT. He says he posted adverts on a trading platform and completed sales with B and C after they contacted him.
- It's clear the payments were made directly to Mr M. I've looked at the fraud reports that show the money Mr M received from B and C were not from sales of USDT, but were from victims of fraud who'd been deceived into paying Mr M.
- Mr M has said he sent USDT's in return for the payments of £686 and £865 which he received from B and C. He has provided screenshots of trades showing that to be the case. I do not believe however that necessarily shows that Mr M was entitled to those payments. Screenshots do not, for example, demonstrate how those trades came to be placed or provide any information about Mr M's relationship with the payers.
- I am not persuaded what Mr M has said is enough on its own to show the payments simply represented the sale of cryptocurrency. The other information I have reviewed, which Tide has provided to this service in confidence, runs contrary to this being the purpose behind £865 payment to a significant degree. And the

circumstances that led to the £686 payment.

- I have considered carefully what Mr M has said about the process he used to sell the crypto currency in this case. I have no doubt that the trading platform carries out due diligence on buyers and sellers, as Mr M says it does. However, the issue here is not really about the process for releasing the crypto-currency, or even whether Mr M was entitled to receive payment for it. The issue is whether Mr M was entitled to receive the payments he did receive from the sources from which they came. The evidence he has provided does not, in my view, demonstrate that.
- I note too that Mr M opened his account shortly before the fraud took place but used it for little other than receiving and moving on money. This would be most unusual for an account opened for genuine use – but it does fit well with how an account might be used for fraud.

In summary, the requirements around banks lodging markers at Cifas include there being sufficient evidence that the customer was aware and involved in what was going on. When I weigh everything up, I think this most likely exists here from reviewing all of the evidence. I've considered what Mr M says about the money paid into his account. But in my view, based on all the evidence, I'm satisfied this shows there were reasonable grounds to suspect that fraud had been committed. And from all the evidence I've seen that Mr M was likely complicit in this. So, I don't believe it would be right to ask Tide to remove the marker.

My final decision

For the reasons I've explained, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 1 May 2025.

Sharon Kerrison
Ombudsman