

## **The complaint**

Mr D complains that J P Morgan Europe Limited (trading as chase) unfairly loaded a marker about him at Cifas, the national fraud database.

## **What happened**

Mr D had an account with Chase.

In early February 2024, in excess of 50 payments, for various amounts from several individuals, were paid into Mr D's account.

Following this Chase were notified by other banks that the payments Mr D had received from Mr D were fraudulent and that their customer had been the victim of an investment scam.

Chase decided to block Mr D's account and asked Mr D to get in touch so that it could speak to him about the payments. Mr D contacted Chase and told them he didn't know anything about the payments. He explained that he had given his phone to an online repair shop and when he got his phone back, he couldn't access his Chase bank account.

Following this Chase decided to place a fraud marker against Mr D's name with Cifas. This was for misuse of a facility in relation to retaining fraudulent funds. Chase also closed Mr D's account immediately.

Mr D complained to Chase and asked them to remove the marker. Mr D told Chase that in return for money he'd allowed someone to use his account. Mr D said he had been desperately in debt, knew what he was doing was wrong but needed the money. He said he hadn't told Chase the truth initially because he was scared about what might happen and that Chase would close his account.

Chase reviewed everything including what Mr D had told them. After doing so, it said it wasn't willing to remove the marker.

Unhappy with this response Mr D brought his complaint to our service. He wants Chase to remove the marker. He said the marker has led to the closure of bank accounts he had. And that it was impacting his ability to take out credit and open other accounts. He explained his mental health has suffered because of the stress and worry about the impact of the marker on him. And that when he spoke to Chase, staff were rude, dismissive and unhelpful.

An investigator looked into Mr D's complaint. After reviewing everything the investigator said that Chase hadn't done anything wrong when it had recorded the marker against Mr D's name. And closed his account. So, they didn't uphold the complaint.

Chase agreed with what the investigator said. Mr D didn't. He wants the marker removed and said that is impacting his credit file and ability to open a bank account.

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.

The marker that Chase filed with Cifas against Mr D 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 D 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 D'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 Chase should be giving the account holder an opportunity to explain what was going on.

Here Mr D received funds into his account that were confirmed by third -party banks to have originated from fraud. The banks reported that their customers had fallen victim to scams. And had sent money to Mr D's account but had received nothing in return.

In February 2024, Mr D contacted Chase after he discovered his account had been blocked. Chase told Mr D that they had concerns about the payments that had been paid into his account by Mr D. Chase asked Mr D to send them evidence of where the funds had come from and proof that the money belonged to him. In response Mr D told Chase he didn't know anything about the money and believed some had used his bank account after he put it in for repair. Mr D subsequently told Chase that he'd allowed his account to be used by someone else in exchange for earning some money.

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

- I've seen the evidence from Chase that confirms they were notified by other banks that fraudulent funds were paid into Mr D's account.
- Mr D has said that he benefited from the fraudulent funds.
- When Mr D first spoke to Chase he lied and told the bank he didn't know anything about the activity on his account. He said that he'd sent his mobile phone for repair and when it was returned, he couldn't access his Chase account.
- When Mr D discovered the Cifas marker he told Chase that he knowingly allowed his account to be used by someone else to receive fraudulent funds in exchange for a cut of the money – in other words he was acting as a so called 'money mule.'
- I've considered what Mr D says about the impact the marker has had on him. And that he is very remorseful for doing what he did. I also acknowledge Mr D has said that he was in debt and was motivated financially when he allowed his account to be used. But he hasn't described being placed under any duress.

- In my view, based on all the evidence, I think it's most likely Mr D allowed his Chase account to be used for receiving fraudulent funds. I say this because he lied to Chase when he was first asked about the activity on his account when he would have had every reason to come clean if he was an unwitting participant. As far as I can see, the evidence strongly supports that Mr D was knowingly involved in fraud, whether directly, or as a money mule. So, I'm not convinced Mr D is an innocent party. I think the evidence shows that Mr D was involved in a misuse of facility.

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. Mr D has received funds into his account that have originated from fraud. I also find that the suspicious circumstances of the movement/use of the money and explanations provided by Mr D about what he did with the fraudulent money adds weight to this argument.

Having looked at all the evidence I'm satisfied this shows there were reasonable grounds to suspect that fraud had been committed. And from evidence I've seen that Mr D was likely complicit in this. On this basis I didn't think it would be fair or reasonable to ask Chase to remove the marker or pay Mr D compensation.

### **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 D to accept or reject my decision before 18 April 2025.

Sharon Kerrison  
**Ombudsman**