

## The complaint

Mr W complains that Barclays Bank UK PLC unfairly registered a marker about him at Cifas, the national fraud database.

## What happened

Mr W had a savings account with Barclays.

Mr W has explained that he acts as a middleman buying and selling airline tickets to family and friends.

Between 8 February 2023 and 2 March 2023, three payments totalling £3,000 were paid into Mr W's account from an individual I will refer to as Ms A. On 14 March 2023, a payment of £2,000 was paid into Mr W's account, from an individual I will refer to as Mr C.

The funds were immediately dispersed via multiple transactions to several beneficiaries, including to an external business account which I will refer to as T. Mr W is listed as a director of T on Companies House.

On 27 March 2023, Mr W closed his savings account.

In September 2023, Barclays were notified that the payments Mr W had received from Ms A and Mr C were fraudulent. Mr C and Ms A said that after paying Mr C for tickets, the tickets had been cancelled and they hadn't been able to contact Mr W. Following this, Barclays blocked Mr W's account and asked him to provide information about his entitlement to the money he'd received from Ms A and Mr C.

Mr W told Barclays that he had sold airline tickets to Mr C and three others. He said that Mr C had cancelled his ticket voluntarily and had been refunded. He said the other three passengers had also failed to show up for their return flights. Mr W provided screenshots of his chats with the airline to support his explanation.

Barclays reviewed everything and asked Mr W to provide evidence that Mr W had refunded Mr C. But he didn't provide anything. Following this Barclays decided place a fraud marker against Mr W's name with Cifas. This was for misuse of a facility in relation to retaining fraudulent funds.

Mr W complained to Barclays and asked them to remove the marker. Barclays reviewed everything including what Mr W had told them. After doing so, it said it wasn't willing to remove the marker.

Unhappy with this response Mr W brought his complaint to our service. He said he hadn't done anything wrong and had sold airline tickets to Mr C and Ms A.

An investigator looked into Mr W's complaint and asked Barclays and Mr W for some more information about what had happened. In summary, she asked Mr W:

- Who cancelled Mr C's flights and to provide evidence that he'd been refunded.
- To explain why the other three passengers on Mr C's booking took the outgoing flights but didn't show up for their return flights.
- To provide evidence that he'd bought tickets for Ms A and an explanation about why her flight had been cancelled.

In response Mr W said the following:

- He had filed a report with the police against Ms A and her relatives because they had engaged in banking fraud.
- Ms A had made false statements against him.
- His phone was always switched on so, Ms A could have spoken to him about any issues with her tickets at any time.
- Mr A said he couldn't provide any evidence to our service about the police investigation into Ms A because the police had asked him not to share any details. But he provided what he said was the crime reference number.
- He provided evidence that he'd rebooked Mr C on another flight.
- He voluntarily closed his savings account to consolidate his accounts.

After reviewing everything the investigator said that Barclays hadn't done anything wrong when it had recorded the marker against Mr W's name. So, they didn't uphold the complaint.

Barclays agreed with what the investigator said. Mr W didn't. He wants the marker removed and said that he had nothing to do with any fraudulent activity.

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 Barclays filed with Cifas against Mr W 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 W is guilty of a fraud or 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 W'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 Barclays should be giving the account holder an opportunity to explain what was going on.

Here Mr W received funds into his account that were confirmed by a third -party bank and another Barclays customer to have originated from fraud. Barclays received information that Mr C and Ms A had paid Mr W for airline tickets, which they then discovered had been cancelled. They were then unable to get in contact with Mr W.

Barclays contacted Mr W and asked him what he knew about payments from Mr C and Ms A. Mr W told Barclays that he'd sold airline tickets, which had been cancelled and that Ms A was a fraudster.

So, I need to consider whether based on all the information including the evidence Mr W has submitted to us, whether Barclays 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 Barclays that confirms they were notified by another bank and another one of their customers that the money Mr W received from Mr C and Ms A originated from fraud.
- When Barclays asked Mr W about the payments at the time he said he'd received the funds from Mr C and Ms A for selling them airline tickets. But Mr W hasn't provided any evidence about his arrangement with Mr C and Ms A which would support his explanation, such as any messages between him and them prior to him receiving the funds. Such as why Mr W was acting as a middleman for them to buy airline tickets. I find the fact there is no evidence at all just isn't credible. If this was a legitimate transaction, I'd expect there to be some evidence that led up to this booking arrangement which Mr W could provide. But nothing has been provided.
- Barclays has provided evidence to show that upon receiving the funds from Mr C and Ms A, Mr W dispersed them via multiple transactions to a number of beneficiaries, including to an external account, which Mr W is listed as a director of on Companies House. I can't see that there is any plausible reason why the funds would be credited to Mr W's personal savings account, only for some to be transferred out to his external business account.
- Mr W hasn't provided any evidence that he purchased airline tickets for Ms A or that he refunded Mr C any money.
- I can see from Mr W's account statement and the information Mr C provided to his bank that Mr C paid Mr W £2,000 for his flights on 14 March 2023. Mr W says that when the original flight was cancelled, he rebooked it for Mr C, and he has provided evidence of this. From looking at this evidence, I can see that a flight booking was made at 10:47am on 31 July 2023 for a flight which took place at 6:50pm on 31 July 2023. Mr W hasn't offered any reasonable explanation why Mr C would cancel one flight to then book another flight with the same destination, for the same date, and why he would leave it until so late to make the booking.
- I note that the cost of the new flight was just over £850 whereas Mr C paid Mr W £2,000. Mr W hasn't provided any evidence that he refunded Mr C the difference – of just under £1,150.
- Mr W hasn't provided any evidence of any discussion he had with Mr C which would explain why Mr C's flight was voluntarily cancelled (as he's suggested), which is contrary to the what Mr C told his bank, and more significantly why Mr C would then want to rebook for the exact same journey.

- Mr W has made some serious allegations against Ms A – he has said that she is a bank fraudster. Mr W has said Ms A has made false fraud allegations against him regarding the four payments she sent to him and that he did provide her with flights. Mr W has told us that he has reported Ms A to the police and that she along with her relatives have been arrested based on his allegations. T
- The investigator has asked Mr W to provide evidence of what he has said about Ms A and the police involvement. But he hasn't provided anything over than a crime reference number. It's not clear to me why he hasn't presented more evidence now he was given an opportunity to do so.
- Mr W has told us that the police have told him not to share any information. But given the circumstances that Mr W has for wanting to share this information with our service – in essence to clear his name and have a fraud marker removed, I can't think of a reasonable explanation for why the police would have told Mr W he shouldn't share the information with us. It just doesn't make sense. I've weighed this against what Ms A said to Barclays about the money she paid Mr W. Having done so, this leads me to doubt the credibility of Mr W's version of events and suggests to me that Mr W was potentially involved in fraudulent behavior.

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 W 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 W about what he did with Mr C and Ms A's 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 W was likely complicit in this. On this basis I didn't think it would be fair or reasonable to ask Barclays to remove the marker or pay Mr W 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 W to accept or reject my decision before 14 April 2025.

Sharon Kerrison  
**Ombudsman**