

The complaint

Miss W complains Barclays Bank UK PLC (“Barclays”) applied a fraud marker against her, withheld her funds, and closed her accounts.

Miss W adds that Barclays’ actions have caused her substantive distress, financial hardship, and inconvenience, and so it should put things right by paying her appropriate compensation.

What happened

The details of this complaint are well known by both parties, so I won’t repeat them again here in detail. Instead, I’ll focus on setting out some of the key facts and on giving my reasons for my decision.

In April 2023, following a review, Barclays blocked Miss W’s accounts. Barclays informed Miss W that it needed information about a payment she had received of £1,700 earlier that month. Miss W was permitted to withdraw any funds that related to her salary and/or benefits.

Miss W explained she had sold a van to a friend of a friend, and the buyer is no longer responding to her. Miss W also explained to Barclays that she didn’t have any official confirmation of selling the van nor any insurance documentation. Miss W did send some screenshots of messages that she says shows she sold the van.

Following its review of Miss W’s entitlement to the funds, Barclays notified her that it was closing her accounts with immediate effect in May 2023. The funds in Miss W’s account were withheld by Barclays and moved to one of its internal accounts. Barclays also applied a CIFAS (Credit Industry Fraud Avoidance System) ‘misuse of facility’ marker against Miss W.

Unhappy with Barclays’ actions, Miss W complained. In short, Barclays made the following key points in its October 2023 response:

- Barclays has caused delay in how long it took with its proof of funds process. So it would like to offer Miss W £350 compensation for this
- Barclays correctly decided to close Miss W’s accounts
- Barclays has reviewed Miss W’s proof of funds information, and having done so it can’t remove the CIFAS marker it had applied
- Barclays couldn’t justify the release of Miss W’s funds pending its review. And because it needed to be assured that they were from a genuine source. After doing so, Barclays released the funds to Miss W on 25 October 2023

Miss W referred her complaint to this service. One of our Investigator’s then looked into it and asked Miss W and Barclays for more information. In relation to the sale of the van which the £1,700 related, Miss W said:

- She had no evidence to prove she owned the van. Miss W had sold a different vehicle in part exchange, and never registered the van in her name or got insurance because it was sat on her drive for a week. When she sold it to a friend of a friend it was still registered in the previous owner's name, and the only evidence she has are message exchanges from her phone

Our Investigator then sent both parties their recommendation to resolve the complaint in which they said it should be partially upheld. Their key findings were:

- Barclays closed the accounts in line with the terms of the accounts, and its obligations
- The CIFAS marker was applied fairly given Miss W couldn't provide proof of entitlement to the funds. Miss W thinks the marker should be removed because it returned the £1,700 to her. But Miss W spent the £1,700 in April 2023
- Barclays withheld the funds correctly, but it should've returned them in August 2023. So Barclays should pay her 8% simple interest on these funds from August 2023 until they were released
- It's not appropriate to ask Barclays to compensate Miss W given the circumstances surrounding the application of the CIFAS marker. So Barclays' offer of £350 compensation shouldn't be increased

Miss W didn't agree with what our Investigator said. She maintains that she is innocent of any wrongdoing, and she's been the victim of fraud herself committed by the person she sold the van to. Miss W added that Barclays said she was due £750 in compensation. But Barclays later told this service that wasn't the case and this figure related to its case fee to this service.

As there was no agreement, this complaint was passed to me to decide. I then sent both parties my provisional decision in which I said I was planning on not upholding this complaint. For ease of reference, here is what I said:

Provisional decision

"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 discourtesy is intended by me in taking this approach. Instead, I've focussed 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. I do stress however that I've considered everything Miss W and Barclays have said before reaching my decision.

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, I am planning on not upholding this complaint. I'll explain why.

Account review, restrictions, and closures

Banks in the UK are strictly regulated and must take certain actions in order to meet their

legal and regulatory obligations. They are also required to carry out ongoing monitoring of an existing business relationship. That sometimes means banks need to restrict, or in some cases go as far as closing, customers' accounts.

Barclays has explained and provided me with evidence to support why it reviewed and restricted Miss W's accounts. And for why it withheld the funds in them. Having carefully considered this, I'm satisfied Barclays did so in line with its obligations.

I would add too that these obligations generally cover the entire period of its customer relationship – from application to eventually the end of the relationship. This includes Customer Due Diligence (CDD). It's worth noting these checks include not just the verification of a customer's identity, but also establishing the purpose and intended nature of the business relationship and origin of funds.

Barclays is entitled to close an account just as a customer may close an account with it. But before Barclays closes an account, it must do so in a way, which complies with the terms and conditions of the account.

The terms and conditions of the account, which Barclays and Miss W had to comply with, say that it could close the account by giving her at least two months' notice. And in certain circumstances it can close an account immediately or with less notice.

Having carefully reviewed Barclays explanation and related evidence, I'm satisfied it acted fairly and in line with its terms and conditions of account in closing Miss W's accounts in the way it did.

CIFAS marker

Barclays say the marker it filed with CIFAS is intended to record there's been a 'misuse of facility' – relating to using the account to receive fraudulent funds. In order to file such a marker, Barclays is not required to prove beyond reasonable doubt Miss W is guilty of a fraud or financial crime, but it must show there are grounds for more than mere suspicion or concern.

CIFAS says:

- That there are reasonable grounds to believe that a Fraud or Financial Crime has been committed or attempted*
- That the evidence must be clear, relevant, and rigorous*

What this means in practice is that a financial business must first be able to show fraudulent funds have entered Miss W's account, whether they are retained or pass through the account. Having looked at the information Barclays has given me, I'm satisfied fraudulent funds entered Miss W's account.

Secondly, Barclays will need to have strong evidence to show the consumer was deliberately dishonest in receiving the fraudulent payments and knew it was, or might be, an illegitimate payment.

A marker shouldn't be registered against someone who was unwitting; there should be enough evidence to show deliberate complicity. So, I need to consider whether Barclays has enough evidence to meet the standard of proof and load a marker for a misuse of facility with CIFAS.

Miss W doesn't have any compelling evidence that she sold the van. She only later said that she hadn't registered it with the DVLA and that it was registered to the previous owner's name. And that's why she had no insurance. But I would expect her to have some official information to show she was the legal owner and entitled to sell the van. I note too that her version of her ownership and the sale has varied over time.

Miss W has provided screenshots which she says shows she sold the van. But these are not dated and in of themselves aren't persuasive to show she has been the unwitting victim of fraud perpetrated by the person she was selling the van to.

So after carefully weighing everything up, and as there isn't any compelling evidence to show Miss W wasn't witting, I'm satisfied the CIFAS marker has been applied fairly. I'm satisfied that in applying the marker, Barclays met the standard of evidence required to do so. That means I won't be asking Barclays to remove the marker.

Fair redress and delays in releasing the funds

I'm satisfied that Barclays hasn't done anything wrong in blocking and closing the accounts; and in withholding the funds and applying the CIFAS marker. So I see no basis to award any compensation to Miss W for any financial hardship, inconvenience, and distress she suffered because of these actions.

Barclays accept it caused some delay in releasing the funds to Miss W. So I need to think whether its appropriate to award 8% simple interest for the time she was unfairly deprived of access to her funds.

But after considering what Miss W has said and the content of Barclays' review, I don't find awarding Miss W compensation would be fair or appropriate. I understand Miss W would want to know the information I have weighed to reach this finding. But I am treating this information in confidence, which is a power afforded to me under the Dispute Resolution Rules (DISP), which form part of the Financial Conduct Authority's regulatory handbook.

DISP 3.5.9R states:

"The ombudsman may:

- (1) exclude evidence that would otherwise be admissible in a court or include evidence that would not be admissible in a court;*
- (2) accept information in confidence (so that only an edited version, summary or description is disclosed to the other party) where he considers it appropriate"*

I know what I'm planning to decide will disappoint Miss W, but to be clear I am not recommending that she should be paid any compensation nor 8% simple interest for being deprived of her funds for longer than she should have"

The deadline for both parties to respond has now passed. Miss W hasn't responded.

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.

Having done so, and for the reasons in my provisional decision – as above – I have decided not to uphold this complaint.

My final decision

For the reasons above, I have decided not to uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 3 February 2025.

Ketan Nagla
Ombudsman