

The complaint

Mrs O complains that Starling Bank Limited ('Starling') registered a Cifas marker against her without due cause.

What happened

The details of this complaint are well known to both parties, so I will not go into every detail here. But, in summary, in September 2022 Mrs O received a £2,000 payment into her Starling account. Following this, Starling received a report from the sending bank that this had been sent as the result of a scam, and so Starling took the decision to review Mrs O's account, and asked her for information about the payment. Mrs O said the payment had been a gift from a friend. Starling asked Mrs O more questions about the provenance of the funds, and why part of the money was sent on to another account Mrs O held, but they said that she was not forthcoming with further information or supporting evidence. So, Starling decided to close Mrs O's account and registered a Cifas marker against her for misuse of facility.

Mrs O was unhappy, and complained to Starling by phone. She said she did not receive a final response from Starling, and was unsure if this had also been sent to her on the app that she no longer had access to. So Mrs O instructed legal counsel, who complained on her behalf to Starling and brought her complaint to our service.

As part of these complaints, Mrs O provided a detailed witness statement and some supporting evidence. In this statement, Mrs O explained that as an international student, she exchanged British currency for currency from her home country as a type of informal currency exchange. She explained that they did this because exchange rate issues and bank delays meant this often was easier than using an official money exchange bureau or transferring money between UK and international accounts and detailed why this was the case.

Mrs O said that whilst studying, she was part of a group on a messaging app with other students at the same university from the same home country. On one occasion, she said someone approached her through this group to see if she would accept £2,000 and then send them the equivalent in their home country currency. Mrs O said she accepted the offer, as she needed GBP for her rent. The £2,000 was paid in, and Mrs O moved £1,000 to an account held with another bank in order to fund her upcoming rent payment. She explained that she cancelled the payment in her home currency after her account was blocked by Starling.

Mrs O said that Starling blocked her account and asked her some generic questions about the money as they said the sender had recalled it. The chat notes show that when they closed her account, she asked for details of how to send the other £1,000 back as she said it was not hers, but they said they were just returning the account balance and it was for her to organise return of any other funds.

Mrs O said she lost her phone in 2022 and so lost access to a lot of the messaging app chats, but she had managed to find a screenshot of the conversation where the sender of the funds had sent her a receipt of transfer as evidence that they had sent the money. She was also able to show payments before the period in question where she had sent corresponding amounts from her home country account after receiving money into her

Starling account, which she said was previous times she had been a part of this informal currency exchange system.

Mrs O said that she probably should have noticed that the name on the sending account did not match the name of the person she spoke to on the group message chat, but the reference was the first name of the person she spoke to on the group chat and so she said she had no reason to disbelieve that it was him sending the money as promised.

Mrs O's representative said that they did not think that Starling had enough evidence to load the Cifas marker. After putting this evidence to Starling, they decided to remove the Cifas marker, but did not make any offer of compensation or to cover Mrs O's legal costs. They said that they thought Mrs O's story was plausible, but there was not a lot of evidence to support that she was entirely unwitting. They said that Mrs O had told them she lost her phone but somehow had one screenshot. They said she did have evidence of transfers on the home country account, but not at the time of the alleged fraud. They said that the name of the account which sent the money did not match the name of the person she said she was messaging. But they said there was a chance Mrs O was unwitting and given the doubt, they thought now it would be fairer to remove the loading. They did not wish to make any offer of compensation as the further information was not provided until shortly before the marker was removed – and they maintained that on the original evidence, they think their loading was fair.

Mrs O remained dissatisfied. She said the Cifas marker had a hugely detrimental impact on her – mentally, physically, financially and in terms of her career. This has included denial of access to financial products including a mortgage, credit cards and a phone contract. She has also described that it comes up in background checks so has impacted her career progression. She said this has made her depressed. So, Mrs O thought it was fair that Starling offered a compensatory award and covered her legal costs. Mrs O escalated her complaint to our service and one of our investigators looked into what happened. They did not recommend that Starling need to do anything further. Mrs O disagreed with our investigator's findings.

As no agreement could be reached, the matter has been passed 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.

Having done so, I have reached the same conclusion as our investigator, and broadly for the same reasons.

Whilst Starling have now removed the loading against Mrs O, I need to think about whether they acted fairly and reasonably in loading the marker, in order to consider whether they ought to do anything to put things right.

The type of marker that Starling asked Cifas to apply here is for 'misuse of facility' – relating to the account being used to receive and send on fraudulent funds. In order to file such a marker, Starling are not required to prove beyond reasonable doubt that Mrs O is guilty of a fraud or financial crime, but they must show that there are grounds for more than mere suspicion or concern that such an offence took place. Cifas guidance said:

- *"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."*

So, the relevant findings for me to make are whether I believe there was sufficient evidence for Starling to conclude that on balance, the money sent to Mrs O was as the result of a fraud, and that she was deliberately dishonest in relation to this, such that Starling fairly and

reasonably escalated their concerns to Cifas. Even though Starling have now decided to remove the Cifas marker, I do think that they were entitled to load it based on the information they had at the time of the loading, I will explain why.

When considering what evidence and information Starling had at the time they loaded the marker, I think it was reasonable to conclude that Mrs O was dishonest about the receipt of these funds, and so by extension I think it was understandable that they concluded at the time that she was complicit in receiving fraudulent funds. Mrs O said that the money was for a gift and was sent from a friend. It would seem highly implausible that a friend would send money and then request it back with an accusation that it had been sent as a result of a scam. I can see why Starling would conclude this was not most likely what happened at the time.

I do appreciate that Mrs O may not have had quite the intended opportunity to respond to Starling about the circumstances that led to the payment going into her account, due to messages being sent to her within the Starling app after her account was closed. But Mrs O did have some opportunity to speak to Starling about this payment and she has since admitted that she was not honest in what she said at this time. During her conversations with Starling she also said she wanted to know how to send back the £1,000 she had moved on as the money was not hers. I appreciate that Mrs O's representatives have argued that she was asked generic questions and had no reason to understand that her answers could determine whether she was going to have a Cifas marker placed against her. They have also said that she has explained why she did this. But Starling were under no obligation to explain in depth why she was asking these questions, and had no reason to predict why she had said it was for a gift and sent from a friend if this was not true. And when you consider this against the detailed scam report provided by the sending bank, I do think it was reasonable Starling concluded the evidential threshold for a Cifas marker had been met.

Starling have since decided that in light of the further information and evidence provided by Mrs O and her representatives, the evidence is not strong enough to maintain the loading. They have said that they think she has provided a plausible explanation, which they accept may be true. But they did not offer any financial compensation or reimbursement of legal costs as they maintain they did not make an error loading the marker in the first place. They say that Mrs O could have told them the truth when they did have conversations, as if they had the evidence they have now seen, they may not have loaded the marker. This would mean that the negative impact of the loading would not have happened, and so they do not think they are responsible for the harm caused here. And I do think that on balance, I agree.

I think that at the time they made the loading with Cifas, it was an understandable reading of the available evidence that Mrs O was complicit. And I think as soon as they had more evidence which called this into question, they removed the marker with immediate effect. I am sorry as I know this will come as a disappointment to Mrs O, but this means I do not think it would be fair to ask Starling to make a payment in recognition of the distress and inconvenience she suffered here – nor would it be fair for me to ask them to reimburse her legal costs. Whilst I think Starling could have handled things better, it was Mrs O's independent decision to instruct legal counsel to represent her, as the complaints process does not require this to be done.

I was sorry to read of the impact that this situation had on Mrs O's life, as I understand the loading was hugely detrimental to many areas of her life. But my role here is to establish what I think Starling should and should not have done – and I think it is likely that the unknown third party she spoke to on the messaging app who arranged the sending of the fraudulent funds was the main cause of this situation here.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs O to accept or reject my decision before 9 May 2025.

Katherine Jones
Ombudsman