

The complaint

Mr M complains that Barclays Bank UK PLC (Barclays) recorded a Cifas marker against him when they shouldn't have.

He says this has caused him considerable distress and inconvenience and financial loss. He'd like to be put back in the position he would've been in, had the Cifas marker not been loaded.

Mr M is represented by his solicitors.

What happened

Mr M had a current account with Barclays. In June 2021 Barclays received a report from another banking provider that fraudulent funds had entered Mr M's account. Barclays completed an investigation and closed Mr M's account. They also loaded a CIFAS marker against him.

Mr M says he was unaware that he had a Cifas marker against his name until December 2021 when he did a Data Subject Access request (DSAR) to Cifas and they confirmed it.

In August 2022 Mr M appointed solicitors to act on his behalf. In October 2022, Mr M's solicitors wrote to Barclays and provided evidence that the transaction that had been reported as fraudulent, was genuine.

Barclays considered the matter again and in December 2022, they wrote a final response letter to Mr M and agreed to remove the Cifas marker.

Mr M and his solicitors didn't receive the letter, so they wrote to Barclays again in March 2023 to ask what was going on. They also provided details of Mr M's financial situation and the impact the Cifas marker had on him. Another final response letter was issued in September 2023. In this letter Barclays agreed to pay £463.21 to Mr M. Some of this was for the distress and inconvenience caused when applying the Cifas marker, when it shouldn't have. And the remainder was for financial loss. Mr M disagreed, he wanted to be reimbursed the legal fees (£2400) he'd paid for the solicitors to represent him.

Unhappy, he brought his complaint to this service. Mr M's solicitors said Mr M didn't know he could complain. He'd tried to contact Barclays off his own accord, but nothing happened. It was only when they got involved that the Cifas marker was removed. As such, they thought Mr M should receive his legal fees back.

One of our Investigators considered the matter. In summary she agreed that the Cifas marker should be removed. She thought the compensation and financial loss paid by Barclays was fair and reasonable, but she didn't think Barclays should pay the legal fees. She didn't think there was sufficient evidence to show Mr M had tried to sort the problem out himself with Barclays in the first instance. And in any event, she said we were a free service and so Mr M could've referred the matter to us and we would've considered it without

charging.

Mr M's solicitors still disagreed. They said Mr M was left with no choice but to use their services. They said that without their involvement Mr M might still have had the Cifas marker loaded against his name. Because an agreement couldn't be reached, the complaint has been passed to me to consider.

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.

Barclays have now removed the fraud marker that they registered against Mr M in June 2021. So, what I need to consider in this decision is whether the compensation Barclays paid to Mr M was fair and reasonable. And whether Mr M should receive his legal fees back.

Compensation and financial loss already paid

Barclays has accepted that they caused distress and inconvenience to Mr M. They've accepted that they should've done more at the time the fraud report was received, and had they done so, it's likely they wouldn't have loaded the Cifas marker.

Mr M has explained that having his account closed and a Cifas marker against his name caused him a lot of stress and worry. Around the time it happened his wife was heavily pregnant and so he was very concerned about how he was going to ensure he could access his cash etc. His solicitors also said that he had trouble when applying for a mortgage and he missed out on his desired property because he wasn't able to put in a high enough offer.

To recognise the distress and inconvenience caused Barclays agreed to pay £400 compensation. It took on board what the solicitor said about the mortgage issues, but said the evidence provided wasn't enough to pay any financial loss. I'm minded to agree with this because it would be very difficult to say the sole reason Mr M wasn't able to get a mortgage or be accepted for a particular property was due to Barclays. With mortgages and house purchase there's usually lots of contributing factors and moving parts that have to be considered.

Barclays also agreed to pay £63.21 to Mr M for some additional costs he'd accrued when trying to access his money. The evidence provided for this is sufficient to show Mr M lost out because of the actions of Barclays, so I'm satisfied they should re-imburse him for this.

I've no doubt this whole situation caused a lot of stress and worry to Mr M. It was at an important part of his life where he wanted to ensure he could provide for his family, and this caused him additional stress. He then also had to deal with the knock-on effect of the Cifas marker. But, taking everything into account, I think the compensation and financial loss paid is fair and reasonable in the circumstances and as such I don't require Barclays to pay anything further.

Legal fees

Mr M says he tried to contact Barclays on several occasions to discuss his account following its closure in June 2021, but he didn't get anywhere. In December 2021, it was confirmed from a DSAR to Cifas that he had a fraud marker against his name.

I've looked at all the evidence provided by Mr M and his solicitors and Barclays. There is very little evidence to show that Mr M tried to contact Barclays independently about his account between June 2021 and October 2022.

I note Mr M says the only reason he found out about the Cifas marker was because a previous solicitor told him to do a DSAR. I've looked at the letter from Cifas where it confirms there was a fraud marker, and it explains what to do if Mr M doesn't think it has been applied correctly. It says he should contact the business who has applied it in the first instance. So, I'm satisfied at this point Mr M should've known he could query this with Barclays.

I understand Mr M is adamant he tried to speak with Barclays before appointing his solicitors. But there is little evidence (contact notes, call records or call recordings) to support this. And even if I was satisfied that he had tried to contact Barclays about the issue, I think it's reasonable to assume that if he was getting nowhere, he should have raised this as a complaint with them. I think most people understand that if they are unhappy with a service or a response they can complain. Barclays have confirmed that the first complaint letter they received from Mr M was from his solicitors in October 2022.

The evidence doesn't show that Mr M turned to his solicitors at a point when he had no other option. Instead, Mr M decided to appoint them to complain and provide information about the transaction in question when he had the option to do this himself. Because of this, I don't think it would be fair to hold Barclays responsible for this and as such I won't be asking them to re-imburse the legal fees.

My final decision

For the reasons I've explained above, I do not uphold this complaint. If Barclays hasn't done so already it should pay Mr M the £463.21 it agreed to in September 2023.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 23 April 2025.

Rachel Killian
Ombudsman