

## The complaint

Mr B complains Cynergy Bank Plc (“CB”) closed his account without notice nor explanation and applied an adverse fraud marker against him. Mr B is also unhappy CB is holding him liable for payments he didn’t authorise, for the level of customer service it provided, and for how it handled his complaint.

Mr B says CB’s failings have caused him significant financial loss, distress and inconvenience for which he should be compensated. Mr B adds being deprived of essential funds which included his disability benefits have exacerbated the impact of CB’s actions. Mr B has also said the impact of the fraud marker has led to him not being able to open another bank account and having to use a friend’s account instead.

## 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 June 2024, Mr B disputed some transactions made on his account using his debit card details. CB didn’t uphold Mr B’s claim for these transactions and said it believed the transactions to be genuine. In July 2024, Mr B claimed transactions made in a post office weren’t authorised. CB didn’t uphold this claim.

In August 2024, Mr B says he was seeing discrepant account balance information on his CB banking app. Mr B was also having problems withdrawing funds from an ATM, which told him he had ‘insufficient funds’. CB applied a CIFAS (Credit Industry Fraud Avoidance System) ‘misuse of facility’ fraud marker against him. Unhappy, Mr B complained. CB upheld Mr B’s complaint in part. In summary, the key points it made were:

- CB did experience technical issues which meant the balance position shown were incorrect for some customers. CB apologises for this.
- As CB’s previous response and detailed records indicate, withdrawals totalling £590 were successfully made by Mr B. So, no refund will be made.
- There were some instances of Mr B being given wrong the information. The team told Mr B funds debited from his account would be returned to him – but the agent should’ve referred the matter to the relevant team. CB would like to apologise for the callback promises that weren’t kept. CB hasn’t been able to identify why some calls were disconnected.
- In August 2024, CB wrote to Mr B and notified him it was closing his account.
- Mr B will need to raise a Data Subject Access request for CB to investigate his complaint point about a fraud marker being applied.

Mr B referred his complaint to this service. One of our Investigator’s looked into the

complaint and asked both parties for further information. Amongst other things, Mr B explained:

- He had never shared his debit card PIN with anyone.
- When becoming a customer of CB, Mr B was instructed to write down the PIN on a piece of paper for his reference and security. This piece of paper was kept in a small pocket inside the wallet.
- Mr B opted to keep his PIN in this way due to his poor memory.
- Mr B lost his wallet around the time of the disputed transactions in June 2024 whilst shopping. Mr B never found his wallet nor was it returned, and he informed CB about the loss.

Our Investigator recommended Mr B's complaint wasn't upheld. In summary, their key findings were:

Account blocks and closure:

- CB acted in line with its obligations when blocking Mr B's account and it didn't need to warn him nor provide an explanation. Nor did CB cause any undue delay with its review.
- CB notified Mr B of its decision to close his account and did so in line with the terms and conditions. CB doesn't need to give Mr B an explanation. Mr B transferred the remaining balance of 41pence to another account in his name in August 2024, so he knew it was closing.
- CB's apology for the calls being disconnected with Mr B is sufficient.

Disputed Transactions:

- CB has provided evidence from the ATM operator which shows each withdrawal Mr B disputes, the amounts debited from his account were approved, cash was correctly dispensed and removed from the ATM. Also, that no cash remained in the machine. So, the cash was likely dispensed correctly. Therefore, CB correctly debited £590 from Mr B's account, and it doesn't need to refund this amount.
- CB accept its agent incorrectly told Mr B he would be getting these funds refunded.

CIFAS marker:

- CB correctly held Mr B liable for the transactions he disputes. The June 2024 transactions were made using Mr B's debit card and were authenticated by 3DS secure – which required a unique password being entered. Mr B also confirmed when calling CB he still had the card in his possession and didn't want it blocked. This is unusual if Mr B was concerned about fraud being carried out using this card.
- What Mr B said to CB on the phone in June 2024 conflicts with what he has told this service about the wallet and card being lost/stolen and never being found. Payments kept being made using the same card which weren't disputed, and Mr B confirmed he had the card in July 2024 in his possession. So, the card was in Mr B's possession at the time of the disputed transactions.
- As the disputed transactions were made online using the card details, its likely whoever carried them out needed the card in their possession. And as the account was opened in May 2024, there was limited time for the card to be compromised.
- The disputed transactions carried on until there was a balance of 70 pence and stopped thereafter. Which suggests someone had access to Mr B's account statements or online banking. However, there's no identifiable point of compromise of the card – and no plausible explanation for how a third-party would've carried out the

transactions without Mr B's knowledge. So, its most likely Mr B authorised the transactions he disputes.

- CB have shown that all five cash withdrawals were carried out using the debit card ending in 4841. The same card that was used to carry out the disputed transactions in June 2024, and the same one Mr B says he lost and never found again. These transactions were authenticated using Chip and PIN. To have carried these disputed transactions out an unknown individual would have had to take the card and return it within 15 minutes given Mr B says he did make the £20 withdrawal transaction. This is implausible.
- A fraudster would likely maximise their gain if they had taken the card, which doesn't appear to be the case here given some funds were left in the account.
- Based on the evidence, its most likely therefore that Mr B carried out the cash withdrawals he disputes. So, its most likely Mr B raised false claims with CB. Therefore, CB had sufficient evidence to record the CIFAS marker, and it doesn't need to remove it.

Mr B didn't agree with what our Investigator said. I'd like to assure Mr B that I've carefully considered everything he has said, even if I don't expressly set out his points here. Some of the key points, and in summary, Mr B has made are:

- Mr B never received the closure notification letter or any communication. Instead in a call in August 2024 with CB he was given discrepant information that it was being closed, that the account was blocked and later that it wasn't going to be closed. So, CB made errors here and provided misinformation to Mr B about the account closure.
- Though Mr B transferred the remaining balance of 41 pence to his other account, that was to reduce the overdraft and wasn't indicative of him knowing the account was being closed. If CB deemed Mr B a risk, it ought to have prohibited the transfer. There have been inconsistencies with the handling of the account particularly with it being blocked and transfers being permitted.
- On 19 August 2024, Mr B met with frustrating issues with his mobile banking when discrepant balances were being reported and – and there were problems making transactions including for his rent. But he was able to make the payments he needed later using telephone and online banking. This made matters more confusing.
- CB couldn't provide information on why Mr B was being told he had insufficient funds by an ATM machine when he did have funds. Mr B did not successfully withdraw or receive any cash from the ATM's. Saying withdrawals were recorded as successfully debited raises serious concerns about the reliability of CB's information and systems – particularly given the IT issues it was having.
- Mr B never authenticated the disputed transactions as the card was lost and reported to CB nor did he receive any passwords to authorise the payments. CB knew a new card was sent but failed to inform our Investigator. Mr B never used the type of gift card the transactions were sent to.
- The Chip and PIN transaction could've been carried out by a fraudster as he had left the PIN written down in his wallet on a piece of paper, and the wallet was lost and/or stolen. Cards can also get cloned. The CIFAS marker should therefore be removed.

As there was no agreement, this complaint has been passed to me to decide.

### **What I've decided – and why**

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 – as I've alluded to previously - that I've considered everything Mr B and CB 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 have decided to not uphold this complaint. I'll explain why.

### Account blocks and closure

Banks in the UK, like CB, 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.

CB has explained and provided me with supporting evidence as to why it reviewed and restricted Mr B's account in the way it did. Having carefully considered this, I'm satisfied CB acted in line with its obligations. I note Mr B has raised several customer service and misinformation issues related to this and other complaint points. I will address those later in my decision.

CB is entitled to close an account just as a customer may close an account with it. But before CB 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 CB and Mr B had to comply with, say that it could close the account by giving him at least two months' notice. And in certain circumstances it can close an account immediately or with less notice.

CB closed Mr B's account with seven days' notice. Given this is less than two months', I must treat it as an immediate closure. Given CB's concerns, and the evidence it's provided to support its decision, I'm satisfied it has acted in line with the terms and conditions of the account. CB is under no obligation to provide an explanation.

I note Mr B says he wasn't given any notice of CB's decision to close his account. Had CB closed his account *immediately*, that is even without seven days' notice, I would find that it acted in line with the terms and conditions too. I would add too that CB has sent me a copy of the notice letter which I note is correctly addressed. So, I think its most likely notice was provided.

### Disputed Transactions

I note the detail in which our Investigator explained the evidence they had been provided and what the technical information CB provided showed. I've reviewed this evidence carefully, and I'm satisfied that the correct findings have been drawn from them. That means I'm satisfied that the technical data shows cash was dispensed correctly using Chip and PIN to authenticate the transactions. So, CB have correctly debited £590 from Mr B's balance which he says he never benefitted from.

It's unfortunate that Mr B appears to have been told by CB's staff member that he would get a refund. It's most likely this was an error and not predicated on the resulting investigation.

### CIFAS marker

CB say the marker it filed with CIFAS is intended to record there's been a 'misuse of facility' – relating to using the account to make a fraudulent claim. In order to file such a marker, Barclays is not required to prove beyond reasonable doubt Mr B 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.

Having carefully examined all the evidence and arguments, I'm satisfied CB has applied the marker fairly. I'm satisfied Mr B has already been given detailed reasoning why, but some of the key reasons for my finding are:

- The evidence shows the June 2024 transactions were made using Mr B's debit card and were authenticated by 3DS secure – which required a unique password being entered. Mr B also confirmed when calling CB he still had the card in his possession and didn't want it blocked. This is what happened at the time, so I'm putting more weight on this given Mr B says that he lost his wallet and didn't have his card.
- It follows that I haven't seen any compelling or persuasive evidence of how the debit card, which Mr B said was in his possession both in June and July 2024 was compromised. Nor have I seen any explanation or evidence how the extra security steps using 3DS would've been circumvented by a fraudster given it required a unique passcode, which would've been communicated by CB to Mr B, to be entered online.
- The same card was used to carry out the June and July 2024 transactions. In July 2024, the transactions were authenticated using Chip and PIN. But given the short time in between the disputed payments and the ones thereafter that aren't disputed, I find it difficult to understand how this could've happened – and why a fraudster would return the card and not maximise their gains.

Because of these reasons, I'm persuaded that Mr B has made false claims with CB. And so it has met the standards as set out by CIFAS to load the fraud marker. So, I won't be asking CB to remove it.

### Customer service

CB have accepted it provided poor customer service, specifically as promised call backs weren't carried out. I also accept that Mr B was likely given wrong and incorrect information about the account blocks and closures in the way he says. CB have apologised for some of its poor service issues.

However, after considering this, I don't find awarding Mr B compensation for any customer service failings would be fair or appropriate. I understand Mr B 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.

Lastly, as I don't think CB did anything wrong in restricting and closing the account; and in applying a CIFAS marker, I see no basis in which to award any compensation for the financial loss, distress and inconvenience Mr B says he's suffered.

### **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 Mr B to accept or reject my decision before 12 June 2025.

Ketan Nagla

**Ombudsman**