

complaint

Mr B has complained that Lloyds Bank PLC has recorded a marker against him with the industry's fraud avoidance body, Cifas.

background

A brief summary of the circumstances leading to this complaint, and my initial conclusions, were set out in my provisional decision, a copy of which was sent to both parties.

In short, Mr B deposited a cheque for £45,600 into his Lloyds business account. The cheque was drawn from a closed account held in his wife's name at another bank. Mr B then attempted to pay a cheque for £40,000 from his business account into a personal account, before the original cheque had cleared.

Lloyds told Mr B that it was closing his accounts and that it had recorded a Cifas marker against him. Mr B complained to Lloyds. He said he cancelled the cheque to his personal account as soon as he realised he didn't have the funds to cover it. And he said his wife had three accounts so writing a cheque from the wrong account was a simple mistake.

In my provisional decision I set out why I thought Mr B's complaint shouldn't be upheld. I invited both parties to tell me of anything else they wanted me to consider before I finalised my views. Mr B made a number of comments, which I thank him for. Lloyds didn't have anything further to add.

my findings

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've reached the same conclusion as set out in my provisional decision and for the same reasons.

In my provisional decision, I said the following:

Lloyds placed a Cifas marker on Mr B's record because it felt it had enough evidence to do so. I've reviewed what happened and I've taken into account everything Mr B has said, and all the evidence provided. And from what I've seen, I don't think it unreasonable to say Mr B's banking activity looked unusual, and that his balance was temporarily inflated because of this activity and delays in the cheque clearing process. So I don't think Lloyds acted unfairly in applying the Cifas marker, and I don't intend to ask Lloyds to remove it. But it's worth reminding Mr B that this is a provisional decision, so he can still provide us with any comments or evidence he thinks are relevant.

In response, Mr B has questioned over which period his banking activity looked unusual because he thinks Lloyds has been inconsistent by not acting in a similar way on other occasions when he had cheques returned unpaid. He has asked how he would have benefited by his actions. He has questioned why the matter hasn't been referred to the police if Lloyds is so sure Mr B has done something wrong. And he thinks he has been punished enough already given his Cifas marker has already run for some time.

I've considered what Mr B has said very carefully. But questioning how Lloyds dealt with Mr B's account activity previously, or speculating on what Mr B gained from all of this, isn't the issue under consideration. Neither is it my role to question how long the Cifas marker

should run for, or whether the matter should be referred to the police. The issue is whether Lloyds acted incorrectly in applying the Cifas marker when it did given the available evidence – and this is what I've focussed on. And to that end, I don't think there's sufficiently persuasive evidence for me to say Lloyds did act incorrectly.

Mr B has also emphasised the legitimacy of his business. I haven't made any comment on this. As I said above, I've limited my investigation to whether Lloyds acted incorrectly in applying the Cifas marker when it did.

Mr B also says Lloyds has a track record in putting fraud markers on innocent people and has an unethical approach to business. But I have to make my decisions based on the individual circumstances of each case. So Mr B's opinion of Lloyds's business practices, and what has happened to others, isn't enough to change my mind.

It follows that I don't uphold Mr B's complaint. I recognise that Mr B is considering taking his case to court. He is of course free to do this, providing he rejects my decision.

my final decision

For the reasons given above, I don't uphold Mr B's complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr B to accept or reject my decision before 18 September 2017.

Christian Wood
ombudsman