

complaint

Mr R feels that Lloyds Bank Plc ("Lloyds") has treated him unfairly regarding transactions on his account, closing his account and applying a CIFAS marker to his credit file.

background

Mr R had an account with Lloyds from January 2015 and when it was closed in September 2016. During this time Mr R disputed a number of transactions that appeared on his account. Lloyds raised chargebacks on these transactions. Some of these were unsuccessful and this led to Mr R's account being overdrawn. Lloyds sought to recover those funds from Mr R. After some time Lloyds decided to close the account and apply a CIFAS marker to his file. Mr R says this decision is unfair as it has significantly hampered him in his finances. So he complained to Lloyds.

Lloyds investigated and decided it hadn't done anything wrong. So Mr R brought his complaint here and the adjudicator did not uphold it. Mr R didn't agree so his complaint has been passed to me.

my findings

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

Lloyds and Mr R don't agree what actually happened in this case. As such I can only make my decision based on the evidence provided to me by the two parties. In short I must decide what is most likely to have happened. Or in other words, what happened on the balance of probabilities.

Mr R feels very strongly about this issue. He is adamant that he shouldn't be held accountable for this spending and that the CIFAS marker is unwarranted. Lloyds has given its reasons for it thinks it hasn't done anything fundamentally wrong.

I should add at this point that in situations such as this, sometimes financial services firms rely on information which it will not share with consumers for a variety of reasons. When such firms use their discretion to make decisions using such information they are under no obligation to share it with consumers or complainants. Similarly if it is shared with this service then we are obliged also to keep it confidential. I consider this fair in our service's aim of making the correct decisions bearing in mind the consumer's right to not accept this service's final decision or in this case this decision.

On balance I'm sorry to say that I don't uphold Mr R's complaint for the following reasons.

I've considered Mr R's comments both to this service and what he's said to Lloyds. Considering them in the round I think they aren't particularly detailed or persuasive around the transactions in question. There are a number of these transactions and I can see that at least in some cases the contemporaneous notes say he's said that certain transactions were genuine and then the next day told Lloyds they were not. So I don't think Lloyds' position on this matter is unfair. And I don't think I can place substantial weight on what Mr R says now. I say this because I think the records available from the time are more persuasive than compared to Mr R's comments more recently.

I also note that Mr R tends to focus on the consequences upon him of the CIFAS marker being applied and the proportionality of that rather than the source of the issue-the validity of the transactions which were at the start of what has happened. I would expect someone who felt they were not responsible for any of the transactions to have argued this point more than Mr R has. From listening to Mr R when talking to this service he seems to me to be considered and articulate. So all in all I am not persuaded to place significant weight on what he has said.

I can see in Lloyds notes he has explained to it that no one else had access to his card or bank details. However Mr R also says his email was hacked into and that contained his personal details. But this doesn't explain how these transactions were made by other unknown individuals. Or why he has accepted certain transactions as genuine only to say later they are not. And I have no reason to believe that Lloyds' records are unreliable. I am not persuaded that Lloyds is acting out of "spite" towards Mr R as he has suggested.

I would also note that typical fraudulent behaviour is to access as much cash as quickly as possible in order to maximise gain and minimise risk. Many of these transactions are for goods/services and are over an extended period of time. Ultimately Lloyds' decision to close an account is its commercial decision and not for me to decide upon. I should add however from the evidence available I do not think its decision here is unreasonable.

Mr R argues that for Lloyds to make the decision it has, it ought to have "*proof*". However in such disputed transaction cases financial services firms have discretion to interpret the information available to it as it sees fit. Having considered the chargebacks, the notes, Mr R's bank statements I don't think Lloyds' position is unreasonable or unfair.

Mr R focuses on the impact of the CIFAS marker on his finances. Clearly such markers do have significant impact. However I can see Lloyds has reviewed this decision repeatedly. I have also considered it and considering the matter in the round I am not persuaded that it was placed unfairly.

Mr R argues Lloyds position regarding the use of his accounts is conjecture and vague as to its reasoning. I've considered Mr R's bank statements and can see the type of events that Lloyds is referring to. I don't think its comment "*We cannot agree it would be possible for an unknown 3rd party, to have sufficient knowledge of your account credits and your debit card details to submit this number of transactions without your knowledge*" is unreasonable considering the evidence as a whole.

As a consequence of all this I am not persuaded by Mr R's arguments on this matter. On balance I don't think Lloyds has done anything fundamentally wrong. I'm not persuaded the CIFAS marker is unfair. As a consequence of all of this the complaint does not succeed.

I appreciate Mr R will be very disappointed with this decision. However he is only bound by it if he chooses to accept it. If he doesn't accept it he is entitled to pursue the matter through whichever avenue he chooses. However this decision brings to an end this service's involvement in this dispute between Mr R and Lloyds.

My final decision

For the reasons I have explained, while I appreciate this will be a disappointment to Mr R, my final decision is that I do not uphold this complaint against Lloyds Bank Plc.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr R to let me know whether he accepts or rejects my decision before 12 February 2018.

Rod Glyn-Thomas
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