

complaint

Mr M complains that Barclays Bank plc has closed his account without notice, will not return funds to him and has registered his details with a fraud alert scheme.

background

Mr M says that he registered his details with a job search website. He was contacted by someone offering him employment, apparently with a genuine and reputable company in the USA. He gave his contact at his new 'employer' his bank account details. That contact then made or arranged a £1,500 transfer to Mr M's account at Barclays and told him to arrange for most of that money to be sent to an account in Ukraine. He was to retain a 'training fee'.

In fact, the £1,500 paid into Mr M's account was a fraudulent transfer. When Barclays identified that, it wrote to Mr M telling him that it was closing his account immediately; it took the remaining money from his account and logged his details with CIFAS, the national fraud alert scheme. It has refused to release £350 paid into his account shortly after these events – apparently by his father.

my provisional decision

I considered Mr M's complaint and sent my provisional findings to him and to the bank. In summary, I concluded that Mr M had been unwittingly caught up in a scam, as he said. To resolve the matter, I said that Barclays should remove the CIFAS registration and return to Mr M the money which had been paid into his account after the balance had been reduced to zero.

Mr M accepted my provisional findings, but Barclays didn't. It said, in summary, that there was little real evidence to support Mr M's version of events. Mr M had let someone else use his account for criminal purposes, and it was therefore within its rights to make the CIFAS registration.

my findings

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

It seems to me very likely that Mr M played a part in the commission of a criminal offence here. Money was transferred to him fraudulently, and he arranged for it to be moved out of the country. But guidance produced by CIFAS indicates that a fraud marker should only be registered if there are grounds for suspecting that the individual was dishonest in receiving the fraudulent payment and knew that it was or might not be genuine. I don't think that Barclays has demonstrated that here.

In response to my provisional decision the bank pointed out that Mr M had been unable to provide very much evidence about the job scam of which he had been a victim; it referred to discrepancies in the email address he had been using, for example. But that was a point which I identified and discussed in my provisional decision; and I explained why, although it gave me some cause for concern, I didn't think it showed that Mr M had a major involvement in the scam. I concluded that he may have been naïve, but he was neither the prime mover in the scam nor its real target. I also pointed out that Mr M appeared to have sent relevant evidence to Barclays, but neither he nor the bank had sent it to us.

In registering his details with CIFAS, Barclays has treated Mr M in the way I would expect it to treat someone who had a direct involvement in the scam – rather than as someone who was unwittingly caught up in it. I don't think Mr M can properly be said to have been using his account for criminal activity, as Barclays suggests.

my final decision

For the reasons I have indicated, to resolve this complaint Barclays Bank plc should:

- arrange for the removal of the CIFAS marker against Mr M's name, and confirm to him in writing when it has done so; and
- arrange to pay him the balance on the account, paid in after the account balance had been reduced to zero.

Michael Ingram
ombudsman