

## **complaint**

Mrs J complains that Barclays Bank UK PLC has registered a marker at CIFAS, the national fraud database, which means she can't open a bank account elsewhere.

## **background**

Mrs J received payments into her account that were reported as fraudulently obtained. The first was for £3,120 on 10 March 2018 and Mrs J transferred this out using a money transfer service on 11 March 2018. She then received £500 on 15 March 2018. She spent this. Mrs J says that the first payment was for a loan from a friend but that she decided she couldn't afford it and sent it back. She says that the second payment was her money.

Barclays decided that Mrs J had knowingly been in receipt of fraudulent funds and closed her account. It also registered the marker at CIFAS.

Our investigator didn't recommend that the complaint be upheld. He had asked Mrs J to explain why if the first payment had been a loan she didn't want she hadn't returned it to the same account it came from. And why she thought she was entitled to the further £500 which had come from the same source. Mrs J said she had health issues affecting her memory and couldn't provide any more information. He thought that Barclays had shown that the criteria for recording a CIFAS marker had been met.

Mrs J didn't agree and wanted her complaint to be reviewed.

## **my findings**

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

I need to consider whether the report to CIFAS was made fairly. On this point, Barclays needs to have more than a suspicion or concern. It has to show it had reasonable grounds to believe that a fraud or financial crime had been committed or attempted and that the evidence would support this being reported to the authorities.

I've seen the evidence from Barclays confirming that both these payments were reported as fraudulently obtained by the sender's bank. I've looked at the notes that Barclays made when it discussed the payments with Mrs J at the time when her memory of events was most likely fresher. She declined to provide the name of the friend who she says gave her the loan. There is no evidence to support this being a loan and Mrs J hasn't been able to provide any more information to this service about what happened. Mrs J has no evidence about her being asked to send the funds on using a payment transfer service. I'm afraid I don't find Mrs J's account of what happened to be credible. In addition Mrs J has no explanation of why the same person would send her £500. I don't see that she could reasonably think that this money was hers and that she could spend it as she did.

Barclays blocked her account and having investigated what happened wrote to her on 5 April 2018 saying her account would be closed.

Barclays says that it applied the CIFAS marker because Mrs J received fraudulent funds into his account. So I've looked at whether Barclays was fair to apply the marker, based on the evidence it had, and the investigation it carried out. CIFAS guidance says the business must

have carried out checks of sufficient depth to meet the standard of proof set by CIFAS. This essentially means that Barclays needs to have enough information to make a formal report to the police. And that any filing should be for cases where there are reasonable grounds to believe fraud or financial crime has been committed, rather than mere suspicion.

Having reviewed Mrs J's account of events and the evidence Barclays has provided, I'm satisfied that Barclays had sufficient evidence for the CIFAS marker to be recorded. In coming to this view, I've taken into account the following reasons:

- Mrs J received fraudulent funds into his account and didn't report this to Barclays at the time and only contacted it when her account was blocked.
- She authorised the withdrawal of the funds and so was in control of who had the benefit of this money.
- Barclays had reasonable grounds to believe that Mrs J had used fraudulently obtained funds based on the evidence it had.

I appreciate the difficulties Mrs J has been having in opening an account at another bank but I don't have any basis to ask Barclays to remove the marker.

**my final decision**

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs J to accept or reject my decision before 28 February 2020.

Michael Crewe  
**ombudsman**